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# Look Before You Leap!

## *Three buildings you should steer clear of in Houston's thriving office market*

It's a good time to be brokering real estate transactions in Houston. The commercial office market is thriving, current owners are looking to cash in their investments, and new players are looking to get a piece of the action. With so much going on, why risk your reputation by steering potential investors to marginal, troubled properties?

### *The Houston Market Is Hot*

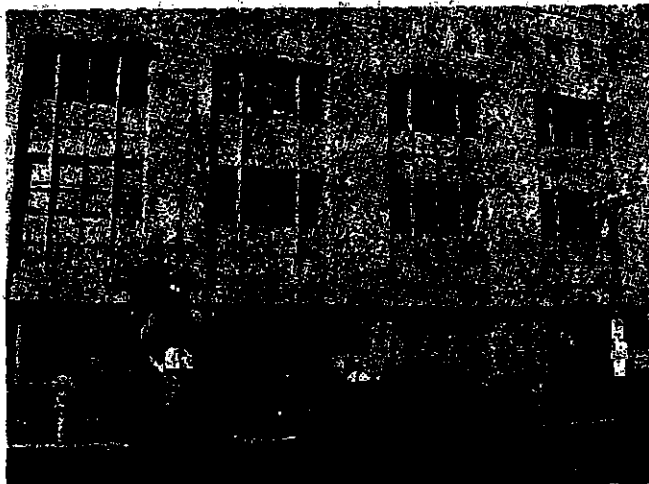
In recent months, the Houston commercial real estate market has received much positive press. Major newspapers and real estate trade publications have carried pieces about how sharp increases in the price of oil and gasoline have created huge profits for the energy industry, fueling an expansion in the amount of office space required in Houston. "Real estate investors, enticed by rising rents and occupancy rates, are returning. Over the last five years, sale prices for office buildings in Houston have climbed by 34 percent, to an average of \$129 a square foot in 2006." <sup>1</sup>

Office building sale prices have reached record highs for the market, energy companies are moving headquarters and expanding, and new speculative office buildings - without a signed lease from a tenant - are being built. Overall vacancy rates have reached the lowest level in five years, 14.3%, and rates for Class A space are 11.7%. <sup>2</sup>

### *PJS: New Risks for Investors*

Until recently, there was no real need for a broker to think about who cleaned a Houston office building. Wages were uniformly low across-the-board—minimum wage at most properties—and turnover among workers was through the roof.

Now, at more than two-thirds of Houston office properties, responsible cleaning companies have adopted a standard wage that is beginning to



**Three Buildings Brokers Should Avoid:**  
**1001 McKinney, USAA Realty**  
**The Binz Building, RPD Catalyst**  
**Ashford V, CMD Realty/Wind Realty Partners**

stabilize the workforce, a key factor in improving quality of service at office buildings. These buildings are on the path toward full-time work and health benefits for janitors—factors that will further stabilize and professionalize the workforce.

Some buildings, however, have been left behind. In particular, buildings cleaned by Professional Janitorial Services (PJS) face heightened risks on two fronts: increasingly visible protests by janitors that could be undesirable when showing properties to potential investors, and significant questions about the quality of service provided by PJS.

### *Labor Unrest at PJS Buildings Up for Sale*

As the picture above shows, protests at PJS properties have been going on for months, and are expected to escalate throughout the summer. Continuing the work started in the high-profile janitors' strike last fall, cleaners and allies from community and religious organizations have taken to the streets once again, this time focusing all their attention at buildings cleaned by PJS. The noisy,

boisterous protests have drawn the attention of building tenants, their customers and clients, pedestrians, the Houston Police Department, and local media outlets. Many of the protests have featured twelve-foot-tall Rex the Rat, who has paid visits to 1001 McKinney, 1010 Lamar, and Ashford V, and expects to make the rounds of other Houston office buildings cleaned by PJS in coming weeks.

#### *Quality of Service and Tenant Retention*

The day-to-day cleanliness of restrooms, elevators, lobbies, and eating areas has a major impact on tenant satisfaction. Unhappy tenants are likely to look elsewhere for office space when their lease expires. When the Building Owners and Managers Association (BOMA) asked tenants to identify the building factors most important to them, nearly all (93%) noted that "excellent maintenance work quality," including regular cleaning services, was key.<sup>3</sup> Given that there is a 52 percent chance that a tenant will not renew its lease if it lodges a major complaint against a building manager three times, owners should remain attentive to providing quality janitorial services.<sup>4</sup>

The main ingredient in quality cleaning services is the labor force, which means both staffing buildings adequately and retaining good employees. Our analysis of PJS buildings where we know the stabilized staffing levels shows that PJS employs one-third fewer cleaners per square foot than Houston's five largest cleaning companies. Building-

by-building comparisons that take into account location, size, and building class show similar results.

PJS workers report concerns about lacking proper equipment to protect themselves and do the best job. "They don't give us gloves or masks to clean. I know a woman who brings her own cleaning supplies from home just so she can protect her health while still doing a good job", says Adriana Menchu, a PJS janitor at 5177 Richmond Avenue. Another employee in the same building reports having to use the same vacuum bags over and over because the company won't buy more.

#### *Other Building Issues Worth Considering*

At some of the PJS buildings up for sale, there are questions about whether fire safety is up to the standards expected by institutional investors and others looking for high-quality assets in Houston. For example, at USAA Real Estate Co.'s 1001 McKinney building, currently listed for sale by Holiday Fenoglio Fowler, last submitted a fire safety plan to the City of Houston in 2002 according to publicly available records.<sup>5</sup> Another building currently listed for sale by HFF, RPD Catalyst's Binz Building at 1001 Texas, only had a partial sprinkler system as of a 2005 general fire department inspection.<sup>6</sup>

1. "Houston, the Oil Town, Is Sharing in a Boom," *The New York Times*, March 14, 2007

2. *Office Market Trends Houston*, First Quarter 2007, Grubb & Ellis Research

3. Transcript of Rick Baier's Speech at BSCAI Convention 2003. March 11, 2003. Chicago, Illinois;

<http://www.boma.org/AboutBOMA/Leadership/officerspeeches/RickBaierSpeechatBSCAIConvention2003.htm>

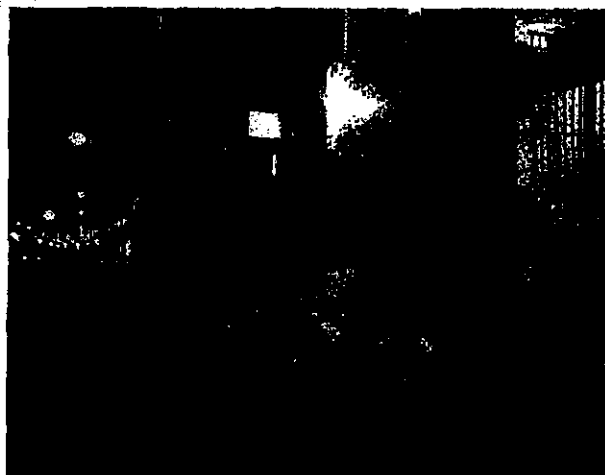
4. "Trends in Commercial Buildings; Industry overview," *Heating, Piping, Air Conditioning*, vol. 64:9 (September 1992) P 6.

5. Response to Texas Public Information Act request, December 2006 to Houston Fire Department for latest Fire Safety Plan submitted for 1001 McKinney.

6. Data from Houston Fire Department, High Rise Inspection Database, received December 2006 pursuant to a request under the Texas Public Information Act.

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## *Why is PJS trashing downtown Houston?*



Professional Janitorial Service (PJS) recently started cleaning 1001 McKinney St in downtown Houston.

For four nights in a row last week, PJS dumped trash from the building on the public sidewalk – even though a Houston city ordinance requires that public sidewalks be clear for pedestrians (see the picture above). *Are your sensitive internal documents being dumped on the sidewalks of Houston?*

It should come as no surprise that PJS is breaking the law. PJS is the subject of a federal class action lawsuit for alleged violations of wage and hour laws, and committed a “child labor violation”, according to the US Department of Labor.

**Ask USAA Realty to use a responsible cleaning contractor!**  
**Call or e-mail property manager Sarah Ellison at**  
**(713) 651-3008 and [sarah.ellison@usaa.com](mailto:sarah.ellison@usaa.com)**

Houston Justice for Janitors Campaign, SEIU Local 5 \* (713) 514-0005 \* [www.houstonjanitors.org](http://www.houstonjanitors.org)  
The Houston Justice for Janitors campaign is currently involved in a labor dispute with Professional Janitorial Service. We have no dispute with any other employer at this location.

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Copyright 1995 Star Tribune  
Star Tribune (Minneapolis, MN)

November 23, 1995, Metro Edition

**SECTION:** Marketplace; Column one; Pg. 7B

**LENGTH:** 1310 words

**HEADLINE:** Labor tactic;  
Unions applying public pressure in attempt to gain bargaining edge

**BYLINE:** Jill Hodges; Staff Writer

**BODY:**

While nursing home workers in Walker pace the picket lines at **Beverly Enterprise's** Woodrest Health Care Center in protest of lapsed contract talks, their union brothers and sisters chip away on other fronts.

Their latest attack came in a news release last week:

**"Beverly Enterprises Feeds at Federal Trough While Violating Federal Law.**

"Branded as the nation's leading labor law violator by worker organizations, **Beverly Enterprises**, the nursing home giant, has been named in a General Accounting Office (GAO) report listing government contractors that have trampled on the legal rights of workers."

Arkansas-based Beverly, battling unions at several of its 700 U.S. locations, is at the ready with its retort, a 12-pager extolling the company's "excellent record." Beverly lambasts what it describes as a "well-financed, systematic campaign of harassment" that amounts to a "cynical scheme to pressure Beverly so that the unions can organize employees who have rejected their overtures." While the Walker facility is organized by the Service Employees International Union (SEIU), others of Beverly's are not.

So-called comprehensive **corporate campaigns**, in which unions attempt to discredit employers in the eyes of customers, shareholders and regulatory agencies, are becoming an increasingly valued tool among unions as they expand their search for pressure points.

Seeking leverage

Newly elected AFL-CIO President John Sweeney has identified the tactic as one of the keys to achieving his goals of beefing up bargaining and organizing efforts. Facing waning membership, toothless labor laws and employers' sophisticated anti-union strategies, unions are on the lookout for innovative approaches.

Actually, **corporate campaigns** have been around for years, said Greg Tarpinian, executive director of the Labor Research Association in New York City.

"What's new is that everybody's doing it," he said. "People are becoming more and more skilled at taking their fights into a new arena."

Labor tactic; Unions applying public pressure in attempt to gain bargaining edge Star Tribune (Minneapolis, MN)  
November 23, 1995, Metro Edition

David Snapp, of the SEIU's international office in Washington, said the campaigns, which highlight issues that ultimately affect employees, are a natural extension of bargaining and organizing.

"Some of the employers get very angry about it because they don't like to have their problems publicly discussed," he said. "Our goal is to get to a point with employers where they will work with us more directly on these questions."

Employers take notice

In the meantime, the campaigns are becoming a critical leverage source in organizing, strikes and bargaining. Unions gather all the information they can about a company's working conditions, products and financial prospects and distribute it to groups who can exact pressure on the company.

The Hotel Employees and Restaurant Employees Local 17 has employed the strategy at Byerly's in Edina, where the union is trying to organize the restaurant workers. Union representatives greet customers with leaflets describing the plight of workers dislocated by the restaurant renovation. The store, in turn, hands out its own leaflet responding to the complaints.

Striking Detroit newspaper workers have persuaded about half the advertisers to pull out of the paper by urging boycotts and leaf-letting at the businesses that do advertise. Kmart and Hudson's stores, which continue to advertise, remain prime targets.

Tarpinian said the campaigns tend to be most widely used and effective - but often least visible - in union efforts to get companies to negotiate first contracts.

"Generally, at this point, it's the only way to get a first contract," he said.

Dan Kuschke, secretary-treasurer for the Hotel Employees and Restaurant Employees Local 17 in Minneapolis, said the union's leafleting and boycott campaigns helped land a first contract earlier this month at the Radisson Plaza VII hotel in Minneapolis after eight years of wrangling.

"I think that it's a tool that we have to use in order to cajole the employer into complying with the rights of employees," Kuschke said. "I think it certainly played a part in terms of getting the Radisson to rethink its own strategy."

But Dean Riesen, president of Carlson Real Estate Co., the hotel's owner, said the efforts had "very little, if any effect" on negotiations.

Nonetheless, employers that historically have brushed off the campaigns as an annoyance are beginning to take notice. About 100 people, mostly representing employers, gathered last week at a Washington symposium that focused on combatting the campaigns.

"It was clear from this meeting that they were hungry for information," said Jeffrey McGuiness, symposium speaker and president of the Labor Policy Association, a Washington organization that represents employers.

"If this meeting was held a year ago, there would have been about 20 people."

McGuiness theorizes that the Clinton administration's labor-friendly appointments have prompted unions to notch up their appeals to regulatory agencies. That, in turn, has attracted employers' attention.

"The National Labor Relations Board and the Labor Department are both taking sides in labor disputes to a much greater degree," he said.



Labor tactic; Unions applying public pressure in attempt to gain bargaining edge Star Tribune (Minneapolis, MN)  
November 23, 1995, Metro Edition

The result: a "charge avalanche" against targeted employers that can cost hundreds of hours and millions of dollars to clean up.

McGuinness contends that it is nearly impossible for employers to keep track of and comply with the thousands of regulations governing the workplace, so unions need only to train the regulatory spotlight on particular employers to create problems.

Employers contend that the practice diverts the tight resources of regulatory agencies such as the Occupational Safety and Health Administration to address trifling or frivolous violations at the expense of more serious concerns involving employers that are not being targeted by unions. But unions maintain they are raising valid issues.

#### Campaigns can backfire

Some employers are fighting back with legal action of their own. North Carolina-based Food Lion Inc. has filed a \$ 300 million lawsuit against the AFL-CIO and United Food and Commercial Workers, alleging they engaged in "fraudulent, anticompetitive and tortious activity" that cost the company at least \$ 100 million. The unions took on Food Lion in the 1980s when it began eroding the markets of unionized grocery stores, questioning among other things the cleanliness of the chain's food operations.

While the campaigns can be powerful, they are not universally successful. Tarpinian said the clout of a campaign rests heavily on the involvement of individual workers as well as the timing and objective of the campaign and the size and strength of the employer. Employers in industries that rely on mass appeal are especially vulnerable.

The campaigns also can backfire. Riesen, of Carlson Real Estate, said that by hurting business, the unions diminish employers' abilities to meet their demands, such as improved wages. Moreover, he said the campaigns heighten bad feelings, making it difficult to reach a resolution.

"There are a lot of ways to make your negative positions heard but I don't think that this one's as effective as a lot of people think it is," he said. "In general I think it is a self-defeating approach."

And once boycotts or legal proceedings get rolling, they're difficult to reverse if the labor issues are resolved, McGuinness said.

"It's probably very easy to turn on a **corporate campaign** and turn up the heat, but it's hard to turn off."

But Snapp said the unions don't decimate employers with the campaigns.

"Our goal is not to put them out of business - it's to achieve specific objectives," he said.

**LOAD-DATE:** November 24, 1995

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FOCUS - 14 of 15 DOCUMENTS

Copyright 1993 PR Newswire Association, Inc.  
PR Newswire

January 14, 1993, Thursday

**SECTION:** State and Regional News

**DISTRIBUTION:** TO STATE, BUSINESS AND LABOR EDITORS

**LENGTH:** 551 words

**HEADLINE:** BEVERLY ENTERPRISES AND ITS INSURANCE CARRIERS VIOLATE WORKERS' COMP LAW, UNION SAYS; STATE ASKED TO INVESTIGATE CHARGES OF ABUSE

**DATELINE:** HARRISBURG, Jan. 14

**BODY:**

The nation's largest for-profit nursing home chain and its workers' compensation insurance carriers were charged today by the union representing their workers with widespread and consistent violations of Pennsylvania's workers' compensation law.

John August, president of District 1199P of the Service Employees International Union (SEIU), stated at a Capitol Hill news conference today that Beverly Enterprises and its compensation carriers are being charged with engaging in "a pattern of abuse, delay and denial" by contesting legitimate claims for lost wages and medical payments, delaying lost wage and medical payments, misleading workers about their rights, and attempting to influence decisions made by the injured workers' physicians in order to deny payments to workers.

The union filed a complaint with the state Bureau of Workers' Compensation that provides evidence from workers in two Beverly facilities, Carpenter Care Center in Tunkhannock and Richland Manor in Johnstown. The union has also compiled additional information supporting the complaint from other Beverly Enterprises employees.

"In October of 1991, I slipped while pushing a 300-pound laundry cart," said Barbara Graffius, a part-time laundry worker at Richland Manor. "About a month later I hurt my back again. Both of my claims for workers' compensation have been denied by Beverly."

August said that, due to short staffing, nursing home workers have injury rates twice as high as workers in any other industry; and workers' compensation claims for these workers cost Pennsylvania as much as \$100 million annually.

"My injuries would never have occurred if there was proper staffing at my nursing home," said Donna Hollister, a certified nurses' aide at Carpenter Care Center. "My life would not have been uprooted and all of my plans for my family and myself would not have been destroyed."

House Majority Policy Chairman Mike Veon (D-Beaver Falls) called for reform of Pennsylvania's workers' compensation law, and decried the short-staffed conditions in Pennsylvania's nursing homes. "It is tragedy enough that injury-causing conditions continue to exist in many nursing homes throughout the state," he said. "But for employers to compound their lack of compassion by trying to deny workers proper medical help and payment for that medical care is utterly reprehensible."

State AFL-CIO President Bill George said he supports the complaint because workers' compensation reform is high on the union legislative agenda and the evidence against Beverly Enterprises and its compensation carrier is overwhelming.

August said the union is seeking remedies from the state agency, including an investigation into the allegations in the complaint, consideration of fines against Beverly Enterprises and its compensation carriers, and awards to employees who have been denied their rights.

SEIU's three Pennsylvania locals, District 1199P, 668 and 585, represent more than 5,000 nursing home workers in Pennsylvania, among them employees of 18 Beverly Enterprises facilities. More than 400,000 of the union's million-plus members are health care workers, making it the nation's single largest health care union.

// CONTACT: Susan Reider of the SEIU, 717-232-4160

LOAD-DATE: January 15, 1993

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# AFL-CIO: BEVERLY ENTERPRISES FEEDS AT FEDERAL TROUGH WHILE VIOLATING FEDERAL LAW

*Date:* Nov 15, 1995

*Words:* 755

*Publication:* PR Newswire

WASHINGTON, Nov. 15 /PRNewswire/ -- The Service Employees International Union and the United Food and Commercial Workers International Union issued the following:

Branded as the nation's leading labor law violator by worker organizations, Beverly Enterprises (NYSE: BEV), the nursing home giant, has been named in a General Accounting Office (GAO) report listing government contractors that have trampled on the legal rights of workers.

The GAO matched the government's contractor data base with the records of the National Labor Relations Board (NLRB) to determine the amount of government money being funneled to labor law violators.

Beverly, along with 14 other government contractors, made the GAO list as one of the most serious violators.

Beverly Enterprises, the nation's largest nursing home operator with over 700 facilities across the country, has the broadest series of repeated labor law violations of any employer. Beverly's violations date back to 1979.

In addition to direct government contracts, the Arkansas-based company also receives about 80 percent of its almost \$3 billion in annual revenue from federal government programs such as Medicare and Medicaid.

The GAO investigation came at the request of Senator Paul Simon (D-Ill.), and found a pattern of labor law violations among a wide range of contractors.

Unlike many federal laws, labor law does not provide for debarment or other penalties that would prevent the award of government contracts and taxpayer money to violators.

Simon has requested that Senator Nancy Kassenbaum (R-Kan.), Chair of the Senator Labor and Human Resources Committee, hold hearings on the issues raised in the GAO report as well as on specific legislation that would provide penalties for contractors who violate labor law.

John J. Sweeney, president of the Service Employees International Union (SEIU), and Douglas H. Dority, president of the United Food and Commercial Workers Union (UFCW), joined in support today of Senator Simon's call for congressional hearings.

In a letter to Senator Kassenbaum, Sweeney and Dority applauded the efforts of Senator Simon and pointed to Beverly Enterprises as a prime example of the need for legislative action to remedy deficiencies on current labor law.

The SEIU and the UFCW are the two primary unions representing Beverly workers and both have filed numerous charges against the company with the NLRB.

According to the labor leaders' letter, "Senator Simon and the GAO have unmasked one of the government's largest on-going scandals -- federal dollars being awarded to federal labor law violators. On behalf of SEIU and UFCW members, we join with Senator Simon in requesting that you hold hearings on legislation to correct this outrage."

The letter continued, "Beverly Enterprises exists entirely on government funds ... at the same time it has flagrantly and repeatedly violated the most basic human rights of workers. Companies like Beverly must be held accountable for illegal conduct."

The scope of Beverly's violations has resulted in four consolidated NLRB cases that span a decade, and involve almost 70 different homes and affect thousands of workers.

The NLRB found in its first consolidated case, Beverly I, that discriminatory discipline, including firings, was the hallmark of the company's anti-worker campaign. Beverly illegally discharged 27 workers between 1986 and 1988 according to the NLRB case.

"Firing is the workplace equivalent of capital punishment. Beverly was found to have illegally denied workers and their families a livelihood. Beverly took food out of the mouths of working families to feed its own corporate greed. Working taxpayers should not be forced to subsidize Beverly's assault on workers. Outlaws should not be rewarded government contracts," said Dority.

Most Beverly workers are women who receive pay just above the minimum wage, and have few, if any, benefits.

In a series of cases, the NLRB has found that Beverly illegally threatened, intimidated, coerced, disciplined, discharged, interrogated and spied on workers -- repeatedly.

"Beverly's record is a litany of virtually every possible labor law violation. The company has left no stone unturned and no tactic untried in its effort to suppress worker organization. Beverly has taken the most vulnerable workers and subjected them to the harshest and most vicious treatment -- and it hasn't stopped yet," said Sweeney.

If Beverly were facing a possible cutoff of federal funds, the company would be forced to comply with federal law according to Sweeney and Dority.

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11/15/95

/CONTACT: Dave Snapp of SEIU, 202-898-3290, or Greg Denier of UFCW, 202-466-1591/

(BEV)

CO: Service Employees International Union, AFL-CIO; United Food and

Commercial Workers International Union, AFL-CIO; Beverly

Enterprises; National Labor Relations Board ST: District of Columbia IN: SU: LBR

KW-AM -- DCW028 -- 1576 11/15/95 13:18 EST

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FOCUS - 1 of 1 DOCUMENT

Copyright 1996 PR Newswire Association, Inc.  
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May 10, 1996, Friday

**SECTION:** Financial News

**DISTRIBUTION:** TO BUSINESS AND LABOR EDITORS

**LENGTH:** 414 words

**HEADLINE:** SEIU NURSING HOME GIANT BEVERLY ENTERPRISES TO BE PROSECUTED FOR HUNDREDS OF LABOR LAW VIOLATIONS;  
Ruling in Favor of the Service Employees Union, the National Labor Board Issues a Complaint Against Beverly for Illegally Replacing Strikers and Hundreds of Other Violations, Seeks National Remedy

**BODY:**

The Service Employees International Union issued the following:  
The National Labor Relations Board (NLRB) has issued a massive complaint against Beverly Enterprises (NYSE: BEV) for hundreds of federal labor law violations. The 108-page complaint was issued after an investigation into allegations filed by the Service Employees International Union Locals 585, 668, and 1199P in Pennsylvania, where roughly 400 Beverly workers were fired after staging an unfair labor practice strike in April. Because of the severity of the violations, and Beverly's history of labor law abuses, the complaint calls for a national "cease and desist" order in more than 700 Beverly nursing homes nationwide. A trial is scheduled for July 15.

WASHINGTON, May 10

Among the violations listed in the complaint are the illegal replacement of striking workers, illegal denial of access to union representatives, illegal removal of union bulletin boards, illegal threats, and illegal failure to bargain in good faith with the union. The violations are the latest in a long history of labor law abuses by the nation's largest for-profit nursing home chain. In recent months, Beverly was cited as one of the worst labor law violators doing business with the federal government.

"Beverly Enterprises has proven again and again to be one of the worst labor law violators in the country, and most deserving of the extraordinary national remedy issued by the NLRB," says Andy Stern, newly-elected president of the 1.1 million member SEIU, the nation's largest healthcare union.

"We can't allow these corporate outlaws to be on the loose in healthcare, where patients should come before profits," added Stern, who in April announced a nationwide organizing and whistleblowing campaign aimed at three healthcare corporations, including Beverly.

In addition to the national "cease and desist" order, the NLRB is seeking to require Beverly to grant all charging party unions access to all of its 700 facilities to speak with the workers and take other measures to protect workers' rights.

SEIU is the third largest and fastest-growing union in the AFL-CIO. Nearly half of its 1.1 million members are healthcare workers, including 100,000 nursing home workers nationwide.

//

CONTACT: Dave Snapp, 202-898-3290, or Deborah Dion, 202-898-3266, both of the Service Employees International Union

LOAD-DATE: May 11, 1996

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FOCUS - 1 of 1 DOCUMENT

Copyright 1996 PR Newswire Association, Inc.  
PR Newswire

May 23, 1996, Thursday

**SECTION:** Financial News

**DISTRIBUTION:** TO BUSINESS AND LABOR EDITORS

**LENGTH:** 590 words

**HEADLINE:** SEIU ALERT TO BEVERLY ENTERPRISES SHAREHOLDERS COMPANY FACING SIGNIFICANT FINANCIAL COSTS

**BODY:**

Beverly Enterprises (BEV) (NYSE: BEV) faces potential costs totaling 7 cents per share on an annualized basis, or 10% of 1995 earnings, as a result of its "defiant stance" toward our nation's labor laws, the Service Employees International Union (SEIU) said today in a letter distributed to hundreds of major Beverly shareholders.

The letter, a copy of which is available on request, is the first in a series SEIU plans to distribute to Beverly shareholders. It outlines the current costs and future liabilities associated with the company's recent decision to permanently replace nearly 400 unionized nursing home workers in Pennsylvania. It argues that "shareholders, consumers and workers will all benefit" if management abandons its scofflaw stance, obeys the law and concentrates on "transforming Beverly into a well-run, top quality provider of long-term care services."

WASHINGTON, May 23

Beverly Enterprises permanently replaced nearly 400 SEIU-represented Pennsylvania nursing home workers in early April after they staged a legal three-day unfair labor practices strike. Because the workers were striking over unfair labor practices and not economic issues, federal law prohibits the hiring of permanent replacement workers by Beverly. On May 10th, the National Labor Relations Board issued a 108-page complaint against the company regarding these and other alleged labor law violations.

The letter charged that Beverly ignored the law and declared its intention to drag out any legal proceedings stemming from the complaint. Such delaying tactics "will merely postpone legal defeat for the company while greatly increasing the ultimate cost to Beverly and its shareholders," predicted SEIU Nursing Home Program Director David Snapp, adding that "when Beverly loses, the company will have to rehire all workers and pay them back wages lost from the time of illegal dismissal."

At roughly \$350 per week in wage and benefit costs for each of the 390 workers involved, the potential liability is mounting at a rate of \$135,000 per week, SEIU estimated, amounting to as much as \$7 million, or 7.5 cents per

share, on an annualized basis. Noting that this is already a steep price for a company whose total 1995 income (excluding one-time costs) was only \$68.5 million or 66 cents per share, Snapp also pointed out that the costs are further magnified by a host of expenditures -- including lawyer's fees, public relations services, the company's temporary army of 200 security guards -- and the full-page image ads management has felt compelled to run in newspapers across Pennsylvania.

In addition to quantifiable costs, "the company is also risking long term disruption of community relationships and potential loss of patient referrals and federal contracts," said Snapp. "Last month, when Senator Paul Simon (D-IL) introduced legislation to prohibit repeat violators of U.S. labor laws from receiving federal contracts, he specifically cited Beverly's \$20 million a year in Department of Veterans Affairs business."

Beverly Enterprises is the nation's largest nursing home company and is based in Fort Smith, Arkansas.

The 1.1 million member SEIU is the nation's largest healthcare union. SEIU members include more than 75,000 nursing home workers in 1,000 facilities nationwide, including 4,000 members at Beverly nursing homes.

// CONTACT: David Snapp, 202-898-3290, or Steve Askin, 202-898-3312, both of the Services Employees International Union

**LOAD-DATE:** May 24, 1996

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FOCUS - 1 of 1 DOCUMENT

Copyright 1996 Crain Communications Inc.  
Modern Healthcare

June 17, 1996

**SECTION:** News; Pg. 46

**LENGTH:** 600 words

**HEADLINE:** SEIU CALLS ON VA TO CEASE CONTRACTING WITH BEVERLY

**BYLINE:** J. Duncan Moore Jr.

**BODY:**

The Service Employees International Union is brandishing a new weapon in its longstanding battle with nursing home operator Beverly Enterprises.

Saying that Beverly fails to meet government contracting standards for business ethics, the SEIU is demanding that the U.S. Department of Veterans Affairs stop doing business with the Fort Smith, Ark.-based company.

According to an SEIU press release, government contracting officers may reject bids from irresponsible contractors, including those whose labor relations policies would provoke strikes or obstruct commerce.

SEIU President Andrew L. Stern last week wrote to VA Secretary Jesse Brown that Beverly's many violations of labor law should render it unfit to receive federal VA contracts. The SEIU said Beverly does about \$20 million in federal business a year.

"Time and again, Beverly has shown its contempt for workers and their rights under federal labor law—from denying maternity leave to a pregnant worker because she attended a union meeting to firing a worker because he refused to engage in illegal anti-union activity," Stern said.

Most recently the National Labor Relations Board issued a 108-page complaint against Beverly after the company replaced nearly 400 workers in Pennsylvania following a three-day strike in April.

"This company simply does not meet minimum standards of business ethics, and should be considered ineligible for federal contracts," Stern said. The SEIU laid out the case against Beverly in an eight-page letter to the VA's chief contracting officer, Judith Sterne.

In response, Beverly Senior Vice President Jim Griffith said: "Part and parcel of the union's 14-year campaign of harassment is to bring up trumped up charges of labor-law violations. They've tried to characterize Beverly as a corporate outlaw, citing violations of labor law allegedly committed as a matter of corporate policy.



"That is absolutely untrue. We were vindicated by the U.S. Court of Appeals....We expect to be vindicated each time there is a fair and impartial hearing. The problem is it takes some time for the judicial process to work."

David Snapp, an SEIU strategist, said the union has never used this approach before in the healthcare industry. "We never had a company like Beverly, either, that has such a record," Snapp said. "If the notion of business ethics includes compliance with federal employment laws, then Beverly seems to me to be the ideal test case, because Beverly has the worst record of compliance with the National Labor Relations Act of any employer."

Snapp said the notion of business ethics "is not extremely well defined" in federal contracting regulations but that "the VA has the authority to define it in this case."

The SEIU used this tactic in its Justice for Janitors campaign. It had some success focusing attention on the labor records of cleaning companies that had contracts to service federal buildings.

**LOAD-DATE:** June 21, 1996

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FOCUS - 1 of 1 DOCUMENT

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Business Dateline;  
Arkansas Business

April 15, 1996

**SECTION:** Vol 13; No 16; pg 1

**LENGTH:** 881 words

**HEADLINE:** Beverly, Union trade jobs

**BYLINE:** David Smith

**DATELINE:** Ft Smith; AR; US; Southwest

**BODY:**

EXECUTIVES WITH FORT Smith-based Beverly Enterprises Inc. and a union representing Beverly workers in Pennsylvania are caught up in a name-calling war that would make comedian Don Rickles envious.

Depending on which side one talks with, 500 or 1,000 workers at 15 of Beverly's 42 Pennsylvania nursing homes conducted a three-day strike in early April. Beverly permanently replaced about 350 of those workers when the strike ended.

Rose Trump, president of a Service Employees' International Union local in Harrisburg, Pa., calls Beverly "an outlaw company on the loose in Pennsylvania" and a "vicious, malicious lawbreaker."

Beverly labels a complaint filed against it by the National Labor Relations Board "the ludicrous product of outrageous complicity between the government and the labor movement."

Beverly has sued the NLRB's general counsel, claiming a 1995 agreement was breached.

Despite the war of words, the battle may be only superficially relevant to Beverly Enterprises' bottom line. Less than 8 percent of its 65,000 employees are union members.

"Operationally (the union problems) don't effect their day-to-day business a great deal," says Scot Mackesy, a Dean Witter Reynolds Inc. analyst who follows the long-term health care provider.

Mackesy, who has a neutral rating on Beverly's stock, says the company has underperformed its peers and its potential. It has poorly integrated some of its recent pharmacy acquisitions. And, he says, the company does a poor job in "execution, pure boring old execution."

"Their level of earnings and return on capital trail a lot of their peers," he says. "Beverly is a very big company and very difficult to move from point A to point B. I just think they have fallen short in that light. As a result I just think there are better investment opportunities (in health care) at this time."

John Griffith of Beverly acknowledges the company performed poorly last year, but he adds the first two months of 1996 have met expectations.

Beverly's 1995 revenue was \$ 3.2 billion, up from \$ 3 billion in '94. But the company had a net loss of \$ 8 million in 1995, in part because of an accounting change.

Beverly is facing the union complaints in Pennsylvania head-on. It has chosen to publicly and legally fight the problems seems to have given up on the idea of negotiating.

The employees represented by the SEIU include some licensed practical nurses but mostly nurses aides and kitchen, laundry and housekeeping workers. The LPNs make from \$ 9-\$ 12 an hour. The other union employees are paid \$ 6.50-\$ 10 an hour.

The union argues that the strike and the complaints concern unfair labor practices. Lenore Friedlander, a Pennsylvania nursing home coordinator for the union, says Beverly has told employees to lie to state inspectors. Workers are forbidden to discuss the union, she says, and cannot talk with patients or their families about problems at the facilities.

"This includes even talking to family members," says Dave Snapp, an SEIU national representative. "The worker who is taking care of your mom says, 'I just want you to know that last night there was only one person on the wing.' That's the kind of thing that as a family member you want to know. The clear intent of this was to discourage people from speaking out at all."

Beverly spokesman Neil Gulsvig says, however, that the company has simply initiated a policy that requires employees to be truthful and "do the right thing" in all situations.

He argues that the strike was actually over wages and therefore Beverly was justified in replacing the strikers. It is illegal to replace employees who have gone on strike over unfair labor practices.

"We are very comfortable and believe without question that this was an economic strike," Gulsvig says. "We wouldn't have replaced the people if we didn't believe that."

Dean Witter's Mackesy says the union's overall effort is to get more membership in Beverly's homes.

"It's purely, 'We want leverage. Let's beat up Beverly while they are down so we can get leverage so we can get better benefits, better wages and get more of our SEIU employees into Beverly homes," Mackesy says.

Even Bruce Reimer, a spokesman for Pennsylvania's Department of Health, is not critical of Beverly Enterprises' operations in his state.

"On a whole, I would probably characterize Beverly as not a whole lot different than any other corporation with multi-ownership in the state," Reimer says. "I think if you take a look at Beverly you'll find some of their homes with excellent track records. On the other hand, we have some Beverly-owned homes that have had their problems in the past."

"Nothing jumps out at me that would indicate a problem any more severe with them than non-Beverly owned homes."

Historically, Beverly has been silent in the press to union demands, Mackesy says.

"I think that Beverly not making comments generally for the last couple of years has been prudent, but then again you want to step up and tell your side of the story," Mackesy says. "It is my opinion -- and it's not just with Beverly; it happened with Hillhaven and it's happened with other players -- when (the unions) feel like they are in a position of leverage to better their position, they take full advantage of it."

**GRAPHIC:** Map

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**LOAD-DATE:** May 2, 1996

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1 of 11 DOCUMENTS

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June 12, 1996, Wednesday, 0 South Pinellas Edition

**SECTION:** CITY & STATE; Pg. 4B

**DISTRIBUTION:** CITY & STATE; METRO & STATE; TAMPA & STATE

**LENGTH:** 504 words

**HEADLINE:** Unions fight nursing home chain growth

**BYLINE:** CAROL MARBIN MILLER

**BODY:**

The leaders of two large international labor unions have asked state officials to halt the plans of **Beverly Enterprises** to expand its nursing home business in Florida, calling patient care conditions at the huge chain's nursing homes "egregious."

In a two-page letter faxed to Gov. Lawton Chiles on Tuesday, the presidents of the United Food and Commercial Workers union and the Service Employees International Union urged the state to deny Beverly's push to add bed space to existing nursing homes and build three new facilities. The expansion would cost \$ 36-million.

Officials at Beverly, the nation's largest nursing home chain, deny charges that the company places more emphasis on profit than resident safety. They say the labor unions have targeted the company for intimidation and bad publicity because it has successfully resisted efforts at unionization.

"The two unions have been conducting a **corporate campaign** against Beverly for 14 years now," said Jim Griffith, a senior vice president. "It takes a variety of forms, including accusing us of a variety of labor law violations."

Griffith said the unions have contacted potential customers to dissuade them from doing business with Beverly, have encouraged unhappy former residents to sue the company, and have conducted their own "alleged" surveys of quality care at Beverly nursing homes.

"They have labeled us a corporate outlaw," Griffith said. "This is a very typical tactic."

Doug Mannheim, lobbyist for **Beverly Enterprises**, notes Beverly has about 70 nursing homes in Florida - about 70 percent of which are rated superior by the state. Beverly is, he added, the largest provider of Medicaid service in the state, with about 66 percent to 70 percent of their business coming from poor patients.

Calling Beverly's expansion plans "a matter of great urgency to the citizens of Florida," the two unions have urged

Unions fight nursing home chain growth St. Petersburg Times (Florida) June 12, 1996, Wednesday, 0 South Pinellas Edition

the state Agency for Health Care Administration to not even consider any applications by Beverly until existing homes become more safe.

In their letter to Chiles, SEIU president Andrew L. Stern and UFCW president Douglas H. Dority cite the Eastbrooke Health Care Center in Hernando County, which was ordered to pay \$ 2.7-million in damages after the death of an 88-year-old man who suffered from malnutrition, dehydration and severe bed sores.

In a blistering and passionately worded opinion, judges with the 5th District Court of Appeal concluded last year that Eastbrooke exhibited either a "reckless disregard of human life" or "reckless indifference to the rights" of Walter Spilman, who died in a general hospital Oct. 15, 1990, after spending his last 11 months at the nursing home.

Stern and Dority quoted the appeals court opinion: "Eastbrooke cannot escape responsibility by managing its facility with managers who close their eyes, refuse to hear and dull their sense of smell."

- Staff writer Lucy Morgan contributed to this report.

**LOAD-DATE:** June 13, 1996



**A-27**

A PROJECT OF CHANGE TO WIN



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## Cure CVS: From Low Quality to High Prices, CVS Is Failing Our Communities

*From the Executive Summary:*

CVS is a retail-healthcare colossus. The company fills or manages over a billion prescriptions a year—30 percent of prescriptions written in the United States—and is the country's biggest purchaser of prescription drugs. It has more drugstores than any other chain—some 6,800—selling everything from soup to shampoo and eyeliner to vitamins, along with prescription and over-the-counter medications.

CVS's growth has come at a high price for many of the communities in which CVS operates. The company's mission is "to improve the lives of those we serve by making innovative and high-quality health and pharmacy services safe, affordable and easy to access." But, according to the results of a 14-month investigation, CVS actually fails to provide equal and fair access to its services, based on analyses of several key measures. And regulators have raised concerns about quality, overcharges, privacy protection and safety related to CVS.



From low quality to high prices,  
CVS is failing our communities

**CVS fails to provide equal access:** Nationwide, CVS locates many fewer stores per person in communities of color than in mostly white areas. CVS also locates more stores per person in the most affluent communities than in those where lower-income people live. In contrast, Walgreens and Rite Aid actually locate more stores per person in less affluent areas across the country. In addition, in several metropolitan areas, CVS has demonstrated a pattern of closing stores in lower-income areas and in communities of color only to open stores in more well-to-do or whiter areas already saturated with pharmacies.

**CVS focuses anti-theft measures on communities of color:** CVS's anti-theft measures signal distrust of people of color. At hundreds of stores across the country in communities of color, CVS displays condoms in locked cabinets that require customers to summon CVS staff to unlock them and monitor customers while making their selections. CVS's two main competitors do not lock up condoms. And in five metropolitan areas surveyors found additional disparities between the anti-theft measures CVS employs in white areas and in areas with a majority of people of color.

**CVS may not offer a fair price:** In Florida, Massachusetts and Illinois, government consumer protection watchdogs have found that CVS's advertised prices do not always match reality and have recently cited CVS for overcharging consumers. In addition, surveys in key markets found that CVS charges more than the competition for a basket of common items.

**CVS's questionable products and services:** CVS has repeatedly been caught with expired infant formula, out-of-date medicines and other expired products on its shelves. Various products it sells under the CVS brand are sourced from companies that manufacture products in or buy ingredients from overseas factories that the FDA rarely inspects, and that have been subjects of numerous regulatory actions and warnings in recent years because of quality control lapses.

**CVS's failure to protect private information:** Consumers may expect that when they leave a CVS store with prescription drugs, over-the-counter medicines and other personal items, it is the end of the transaction. In fact, it is just the beginning. CVS analyzes customers' medical histories and buying patterns to design targeted sales pitches. It sells some of its purchase data to companies that in turn sell the information to drug manufacturers for marketing purposes. And CVS has a record of making private information vulnerable to identity theft that has

prompted action by three Attorneys General.

**CVS's press for profit may put patient care at risk:** Pharmacists report that CVS closely monitors statistics such as the number of prescriptions a pharmacy fills; the speed with which they fill prescriptions; and the amount of time it takes to answer the pharmacy phone. CVS pharmacists say management has been mandating higher prescription volume targets without adding staff. This approach has raised the hackles of some regulators. The Massachusetts Pharmacy Board entered into a settlement agreement with CVS in 2006 after substantiating 62 complaints involving medication errors and other problems. The board brought in outside experts to review the way CVS runs its pharmacies, and the experts suggested that CVS's focus on prescription volume and other statistics might value "speed above safety."

**Click here to download the full report, "Cure CVS: From Low Quality to High Prices, CVS Is Failing Our Communities"**

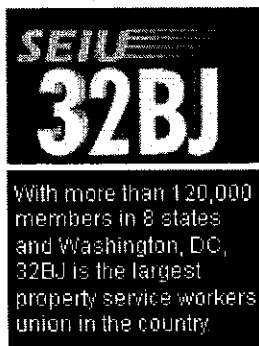
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February 23, 2011

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## CVS Selling Expired Products, Locking Condoms in South Florida According to Change to Win

### Warning to Consumers Issued by Community Advocates

[Printer Friendly version](#)

Published: April 2, 2009

MIAMI--(BUSINESS WIRE)--A delegation of community and faith leaders held a lively demonstration outside a local CVS pharmacy on Thursday to challenge CVS's practice of repeatedly selling products past their expiration dates and locking up condoms, often in communities of color. Activists are reacting to the findings of a study, announced today, that found expired goods and locked condoms in CVS stores in Miami-Dade, Broward and Palm Beach counties.

#### Expired Goods for Sale in 58% of Local CVS Stores Surveyed

In the last few weeks, surveyors found expired products at over half--19 of 33--CVS stores visited in South Florida. These expired goods included over-the-counter medicines, infant formula, and milk products. More than one-third of CVS stores surveyed sold expired infant formula, including a container of Enfamil Prosobee infant formula that was more than six months past its expiration date, purchased at the CVS store at 11721 S. Dixie Highway in Miami. Nearly 40 percent of CVS stores surveyed sold expired medication, including children's pain reliever that was almost two years past its expiration date, also purchased at the Dixie Highway CVS store.

#### Locked Condoms Found in CVS Stores Operating in Communities of Color

CVS also keeps condoms under lock and key in fourteen--over one-third--of the 33 CVS stores visited. In each of these stores all the condoms are inaccessible without staff assistance, despite CVS's claim that all stores have some unlocked packages available. This requires customers to ask for staff assistance to buy condoms, which creates a barrier and stigmatization of condoms and condom users, according to public health advocates.

The survey, conducted this March, suggests that South Florida stores with condom lockup are also more likely located in areas with the greatest concentration of people of color, according to U.S. census bureau data. In zip codes with a majority of people of color, such as the CVS store at 4800 Biscayne Blvd. in Miami where 52% of the local residents are people of color, the CVS stores locked up all condoms. In areas where people of color compose ten percent or less of the population, only one in eleven CVS surveyed stores locked their condoms.

HIV/AIDS is a leading cause of death for Latinos. The rate of new HIV infections among Latinos is three times the rate among whites. HIV/AIDS is the number one killer of black American women between the ages of 25 and 34. Miami, where over 58,000 people are afflicted with AIDS, is third among U.S. cities in the number of AIDS cases.

#### Community Reaction

"I've been fighting to cure the epidemic of HIV/AIDS in the African American community for 20 years, and to find that CVS pharmacies are making it difficult to obtain contraceptives to fight the disease is a disgrace," said Rev. Dr. George McRae, Pastor of Mt. Tabor Baptist Church in Liberty City, Florida.

"We are here today to hold CVS accountable for its actions, or should we say inaction. No longer will we

stand idly by as CVS sells expired and potentially dangerous products," said Francesca Menes, Community Organizer Florida Immigrant Coalition. "Customer, Value, and Service is what CVS stands for, so why does it not value its customers and provide good service?" Menes asked before leading the crowd into the CVS store to meet with the manager about their concerns.

Healthcare for All Florida chair Santiago Leon said, "If we are serious about healthcare costs, we have to be concerned about the epidemic of sexually transmitted diseases. For CVS to restrict access to contraceptives at this moment is exactly the wrong prescription for what ails us"

#### **South Florida CVS Troubles Reflect National Pattern**

The CVS protest in Miami today comes as a similar event took place today in Boston regarding CVS stores' troubling track record on the same issues. Late last week, community advocates in Houston, Texas and San Diego, California urged CVS to stop selling expired goods and unlock condoms, while Philadelphia city council members and the city consumer advocate urged the city solicitor to bring legal action against CVS for selling expired goods there. Last June, Attorney General Jerry Brown criticized CVS for selling expired products at dozens of stores in Southern California, saying the practice violated laws against deceptive advertising and unfair business practices. The New York State Attorney General has sued CVS to stop the company from selling expired goods.

According to a report published last year, surveyors found expired infant formula, milk or eggs on CVS shelves in 666 stores across the country—representing more than 42 percent of the stores surveyed. And in the same report, surveyors found that condom lockup was widespread in CVS stores and that in many areas the proportion of CVS stores that locked up condoms increased with the percentage of residents of color in the stores' zip codes. Public health advocates are criticizing CVS for locked condom cases, saying it is creating a barrier which could decrease condom use.

The following groups participated in today's demonstration in Miami: South Florida Jobs With Justice (SFJWJ); South Florida Interfaith Worker Justice (SFIWJ); National Interfaith Worker Justice (NIWJ); Healthcare For All Florida; South Florida AFL-CIO; Florida Immigrant Coalition (FLIC); Students Working for Equal Rights (SWER); A. Philip Randolph Institute, Miami Dade Chapter (APRI); SEIU 32BJ Florida Restaurant Opportunities Center (ROC)-Miami; more.

For more information visit [www.CureCVSNow.org](http://www.CureCVSNow.org)

**Cure CVS** is an initiative by Change to Win and partner organizations to reform the drugstore industry, starting with CVS, the country's leading provider of prescription drugs and largest drugstore chain. By joining concerned citizen groups with the six million members of Change to Win unions, Cure CVS aims to ensure that CVS provides equal access across all communities and income levels to its stores and services, offers fair and accurate prices, provides quality products and services, protects customers' privacy and puts quality pharmacy care first.

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**A-29**



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The Houston Chronicle

May 28, 2009 Thursday  
3 STAR R.O. EDITION

**SECTION:** BUSINESS; Pg. 1

**LENGTH:** 679 words

**HEADLINE:** Working Rally questions practices; CVS questions motives WORKING: A union-organizing bid?

**BYLINE:** By L.M. SIXEL, HOUSTON CHRONICLE

**BODY:**

In a strip center on the east side of Houston, a small group gathered on a recent day in the shade in front of a CVS pharmacy.

Representatives from area labor unions and community groups came together at the request of Change to Win, a labor federation that has targeted CVS for what it alleges are questionable business practices.

The federation, which includes the Service Employees International Union and the United Food and Commercial Workers International Union, alleges CVS is selling expired over-the-counter drugs and providing fewer services in their low-income neighborhood stores.

However, CVS officials say they try to ensure they don't stock expired products and say what's really behind the "Cure CVS" campaign is a union-organizing effort.

Change to Win began its campaign to disparage CVS in 2007 after it refused to waive its employees' right to vote confidentially in union elections, according to Carolyn Castel, vice president of corporate communications for CVS.

Change to Win is trying to organize employees through a card check process, according to Castel. That's typically an easier and faster way to organize workers than a traditional secret ballot election.

The protest in Houston, she said, is "the latest in a series of misleading attacks."

Change to Win spokeswoman Loretta Kane disputes the notion the group is trying to organize CVS workers and isn't aware of any card check request.

The labor federation is taking on issues that are outside the box, said Garrett O'Connor, an organizer with Change to Win. "It's not just labor issues or the employer/employee thing."



Working Rally questions practices; CVS questions motives WORKING: A union-organizing bid? The Houston Chronicle May 28, 2009 Thursday

During the recent protest, speaker after speaker irately pointed to the expired products on display that were purchased by Change to Win, which ranged from baby formula to children's car sickness pills to allergy medicine. Similar protests took place last week in nine cities, including Atlanta, Baltimore and Chicago.

"I never would have assumed they'd be selling items with these kinds of expiration dates," James Douglas, local counsel for the National Association for the Advancement of Colored People, told the group.

Douglas said it never dawned on him to check expiration dates when he's in a pharmacy. Unless he's buying milk.

"The health and safety of our customers is our top priority," said Castel. "We have a clear product removal policy in place at all of our stores to help ensure that items are removed from our shelves before they reach their expiration date."

'Safety of consumers'

Douglas said he specifically asked Change to Win representatives if its campaign was a union-organizing effort when they asked for his support.

"We tried to make sure it's purely a community issue," he said. But with that said, Douglas said he is still upset by the samples of out-of-date drugs the group exhibited, as well as the items he saw on the shelves himself at CVS. One of the brands of pain relievers had been expired for more than a year, he said.

Francisco B. Rodriguez III, the district director of the League of United Latin American Citizens, is also supporting the Change to Win effort.

"We're only interested in the safety of consumers," said Rodriguez, who told the protesters that his group may have to call for a boycott CVS. "We walk in and assume it's a fresh product."

But a union campaign? Rodriguez said he knows nothing about that.

A. Kevin Troutman, an employment lawyer with Fisher & Phillips in Houston, said that from his view on the sidelines, the consumer-based accusations has all the markings of a **corporate campaign**.

Unions have used such stealth tactics in recent years to pressure their corporate targets by complaining to regulators, generating bad publicity, launching boycotts and picketing board members at their homes.

"I'd be amazed if this is purely a coincidence," he said.

Troutman said sometimes the campaigns backfire, recalling one instance when unions trying to organize a health care provider accused the hospital of using unsanitary linens and other supplies. The hospital won a multi-million dollar defamation judgment, he said.

lm.sixel@chron.com

**GRAPHIC:** Mayra Beltr  n : Houston Chronicle EXPIRATIONS ALLEGED: Among the protesters last week at a CVS pharmacy in Houston was Annica Gorham, of Houston Interfaith Worker Justice. Demonstrations were held in nine U.S. cities, accusing CVS of selling expired products in low-income neighborhoods.

**LOAD-DATE:** May 28, 2009

**A-30**

Take Action: Make Fordham Accountable

Page 1 of 1

## Make Fordham Accountable

### Make Fordham Accountable

Take Action on this Issue  
Fordham University President  
Joseph McShane

**Act  
Now!**

Subject:  
Fordham's Expansion Is Unjust

- President Joseph McShane
- cc: President's Office

Dear President McShane,

(Edit Letter Below)

I am extremely concerned about the proposed expansion of Fordham University's Lincoln Center campus. I believe that this project may negatively impact our community in many ways. The project will bring up to 5,000 additional people to Fordham's superblock, which could lead to the overcrowding of our already busy streets and trains. The construction, projected to last 25 years, could increase the levels of noise and air pollution, affecting the quality of life for residents. The addition of yet another luxury condominium tower only intensifies our neighborhood's affordable housing crisis. Finally, the design of the new campus will be out of scale with its surroundings, and will exaggerate the fortress-like layout of the Lincoln Center campus. Please take community's concerns seriously as you plan this major development.

Sincerely,  
[Your name]  
[Your address]

Maintainer: Stand for Fordham Summit Security Officers  
(info@standforfordhamsummitsecurityofficers.org)

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<http://www.corp-research.org/archives/sep-oct06.htm>

**Corporate Research E-Letter No. 61, September-October 2006**

## **UNCHARITABLE CHARITIES: NON-PROFIT HOSPITALS ARE UNDER FIRE FOR MISTREATING THE UNINSURED**

By Philip Mattera

As comprehensive healthcare reform has gone nowhere at the federal level, advocates for the uninsured and underinsured have targeted those portions of the private sector that prosper from the status quo: price-gouging pharmaceutical companies, for-profit hospital chains that defraud the Medicare system, heartless health insurance providers, and low-wage employers such as Wal-Mart that deny decent coverage to their workers and push them onto overburdened Medicaid rolls. Now another culprit is drawing fire: *non-profit* hospitals and health systems.

Tax-exempt hospitals, many of them sponsored by religious groups, are under attack as never before, accused of betraying their presumptive mission of serving the poor. The assault is coming from many directions. More than 500 hospitals are being investigated by the Internal Revenue Service to determine whether they are providing enough community benefits to justify keeping their exemption. Last month, the Senate Finance Committee held a hearing during which hospitals were raked over the coals. Even before the witnesses testified, Committee Chairman Charles Grassley, an Iowa Republican, put out a statement saying "non-profit doesn't necessarily mean pro-poor patient" and suggesting their record "calls into question whether non-profit hospitals deserve the billions of dollars in tax breaks they receive."

Pressure is also coming at the state and local levels. Attorneys general in states such as California, Ohio and Montana have been investigating the charity-care records of non-profit hospitals, while local property assessors are increasingly asking those institutions to justify their exemption from real estate taxes. Recently, the Illinois Department of Revenue upheld a decision to revoke the tax exemption of Provena Covenant Medical Center of Urbana, part of a six-hospital Catholic health system, because of an insufficient commitment to charity care.

At the same time, non-profit hospitals have been hit with a wave of class-action lawsuits brought on behalf of uninsured patients who say they were overcharged for services and then hounded when they were unable to pay their exorbitant bills. And in a move analogous to the "fair share" initiatives against Wal-Mart, a bill was introduced in the Illinois legislature earlier this year to require non-profit hospitals to devote at least 8 percent of their operating expenses to charity care. The odds are increasing that non-profit hospitals will have to make major changes in the way they operate.

### **LOWERING THE BAR**

The definition of the charitable obligations of hospitals has been contested terrain for decades. Some of the earliest hospitals were indistinguishable from almshouses, serving mainly as repositories of the ailing poor—what historian Paul Starr called "places of dreaded impurity and exiled human wreckage." The late 19<sup>th</sup> Century saw the rise of more professional institutions, which were divided between for-profit clinics set up by individual physicians with the backing of wealthy sponsors and "voluntary" hospitals supported by religious or philanthropic groups with charitable goals. Government-funded hospitals also grew in number, but at a much slower rate. It was not until much later that larger for-profit hospitals came on the scene, led by Hospital Corporation of America, which was founded in 1968. Today, non-profits make up about 60 percent

of the country's community hospitals, and many of them are affiliated with multi-billion-dollar healthcare systems.

For the first half of the 20<sup>th</sup> Century, larger hospitals were assumed to be focused on providing charity care, since few Americans had the means to pay for their own treatment. After the Second World War, Congress gave hospitals a financial boost with the passage of the Hill-Burton Act, which provided federal subsidies for the construction or modernization of healthcare facilities. In exchange, the institutions were supposed to provide a minimum level of charity care.

Nearly all non-profit hospitals were treated as tax-exempt at the local level, which excused them from paying property taxes, and at the federal level, which allowed them to avoid corporate income taxes, to solicit tax-deductible donations and to use tax-exempt bonds to finance their construction projects.

Yet tax-exempt status did not come automatically to non-profit hospitals. The IRS had to review each application on its own merits, which was made difficult by the fact that the Internal Revenue Code did not define "charitable." To provide guidance, the IRS issued a Revenue Ruling (No. 56-185) in 1956. Among the criteria for exemption was that a hospital "must be operated to the extent of its financial ability for those not able to pay for the services rendered and not exclusively for those who are able and expected to pay."

That principle remained in place for more than a decade, but in 1969—following the creation of the Medicare and Medicaid programs, which greatly expanded health coverage for low-income populations—the IRS drastically relaxed the requirements. The agency decided it was sufficient for a non-profit hospital to provide *emergency* care to indigent patients to retain its tax-exempt status. The obligation to provide other services without charge or at low cost was eliminated. The revenue ruling was challenged in court by the Eastern Kentucky Welfare Rights Organization, but in 1976 the Supreme Court found the group lacked legal standing. In 1983 even the emergency-room criterion was relaxed. Apparently, in the eyes of the IRS, it was enough for a non-profit hospital to simply be in the health business to qualify for an exemption. Apart from corporate structure, it became difficult to see what distinguished tax-exempt non-profit hospitals from taxable for-profit ones.

### **"BIG MONEY, TAX FREE, AND NO OVERSIGHT"**

The tax status issue flared up in the early 1990s, amid concern over escalating health costs and the possibility that charity care for the rising number of uninsured families was falling victim to the cost-cutting efforts of hospitals. A May 1990 report by the General Accounting Office seemed to confirm those fears. The report found that non-profits were providing a smaller share of uncompensated care than their share of the overall market. In the wake of the report, there were Congressional hearings and proposed legislation but no lasting change at the federal level.

State and local officials were more aggressive, and a number of hospitals lost their exemption from property taxes. One of the larger institutions targeted was Methodist Hospital in Houston. Methodist ultimately kept its tax-exempt status by agreeing to a settlement with the state attorney general under which it greatly expanded its charity care and contributed millions to create an endowment for the indigent. The high-profile case prompted the Texas legislature to enact a law in 1993 that set strict charity-care requirements for all non-profit hospitals in the state.

The latest period of scrutiny of the hospital tax exemption began in 2004, with developments at both the state and federal levels. State action was concentrated in Illinois, where the Champaign County Board of Review and then the state Department of Revenue began the process of stripping Provena Covenant Medical Center of its tax exemption. In March 2004, Rep. William Thomas (R-

Calif.), chair of the House Ways & Means Committee, announced that he intended to review the tax status of hospitals, suggesting they may be drifting away from their responsibility of serving the community. The Senate Finance Committee decided to hold hearings as well, with Chairman Grassley stating that "Big money, tax free, and no oversight have created a cesspool in too many cases."

Joining these governmental initiatives were a spate of private lawsuits filed against non-profit hospitals. The plaintiffs' lawyers, including tobacco litigation veteran Richard Scruggs, alleged that hospitals engaged in fraud, deceptive business practices and other offenses by overcharging uninsured patients and then hounding them when they were unable to pay their bills. The suits, originally brought against more than a dozen hospitals in various parts of the country, were intended to become a class action.

The initial defendants included a number of institutions that engaged in what could be called extravagant behavior. They included a Louisiana hospital that owns a luxury hotel, one in Georgia that flew its executives on private jets to meetings in the Cayman Islands, and Northern Mississippi Medical Center, which accumulated cash reserves of \$300 million and enjoyed what one bond-rating agency called "exceptional profitability."

The suits have had mixed results, especially in federal courts, where several judges ruled that a hospital's tax-exempt status does not create a contract to provide charity care. On the other hand, plaintiffs' lawyers have managed to secure some significant out-of-court settlements, especially on the West Coast. Last June, for instance, Catholic Healthcare West, the largest non-profit medical provider in California, agreed to a settlement that could provide hundreds of millions of dollars in refunds and bill adjustments to uninsured patients. Two months later, a similar settlement was reached with Sutter Health, a network of 26 hospitals in Northern California.

## **THE PATIENT-WORKER CONNECTION**

Politicians, tax officials and plaintiffs' lawyers are not the only thorns in the side of non-profit hospitals. They are also facing increasingly aggressive organizing drives among their employees led by labor groups such as the Service Employees International Union (SEIU). The unions, especially SEIU, deserve much of the credit for bringing the charity-care issue to the fore. Ever since SEIU began focusing its hospital organizing on non-profits in the late 1990s, the union has been making a connection between the failure to serve the uninsured and the failure to provide decent wages and working conditions to hospital employees.

In 1997 SEIU pressured state officials in California to review the tax status of the giant Sutter Health, which engaged in questionable deals and compensated its executives lavishly, all while providing a minimum of free or low-cost care for the uninsured. In 1999 the union released a report on the poor state of charity care at the Catholic Healthcare West conglomerate. In 2003 SEIU helped bring a suit against Yale-New Haven and Bridgeport hospitals in Connecticut on behalf of indigent patients who had their wages garnished and liens put on their homes because they couldn't pay their bills. During the past two years, SEIU has pressed the charity-care issue against hospitals in states such as Ohio, Illinois, California and Oregon. It created a campaign [website](#) that critiques the operations of Providence Health & Services, a \$6 billion non-profit based in Oregon. Most recently, SEIU United Healthcare Workers-West persuaded the assessor of California's Contra Costa County to review the tax status of John Muir Medical Center because of its extensive involvement in for-profit ventures.

There is no evidence that Republican members of Congress, the IRS, trial lawyers and labor unions are colluding in a vast conspiracy against non-profit hospitals. They undoubtedly have varying motives for pressuring healthcare institutions over their charity record. Yet the sum of their efforts

seems to be hastening the day when huge health empires will no longer be able to avoid both tax obligations and service to those most in need.

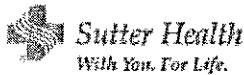
#### **ADDITIONAL RESOURCES**

*Policy Matters Ohio* reports on hospital payments in lieu of taxes:  
[http://www.policymattersohio.org/PILOT\\_Reports\\_2004\\_12.htm](http://www.policymattersohio.org/PILOT_Reports_2004_12.htm)

*Northwest Federation of Community Organizations* material on its Campaigns for Fair Hospital Billing: [http://www.nwfco.org/er\\_doors\\_open.htm](http://www.nwfco.org/er_doors_open.htm)



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## Labor Relationships

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### The Misinformation Campaign

The leaders of Oakland-based SEIU United Healthcare Workers West have engineered a systematic, multi-faceted, misinformation campaign against the organizations that comprise the not-for-profit Sutter Health network of hospitals and doctors. Many of SEIU United Healthcare Workers West's tactics are counter to the union's purported role of representing caregivers at Sutter affiliates and go against the best interest of patient care.

### "Death of a thousand cuts"

Frustrated over its lack of success in attracting new union members through traditional organizing efforts, SEIU United Healthcare Workers West tries in myriad ways to disrupt patient care and embarrass caregivers across our network. One union leader described this type of campaign as "death of a thousand cuts rather than a single blow."

The goal of the SEIU United Healthcare Workers West campaign is to grow union membership and dues, at any cost. The union is attempting to force Sutter Health leaders to recognize and endorse SEIU United Healthcare Workers West as the union of choice for employees throughout our network. This would add \$7.8 million a year in new union dues for UHW from employees within the Sutter Health network.

"We're putting more of our members' resources into organizing new workers... to increase strength and power," SEIU United Healthcare Workers West president Sal Rosselli told the San Francisco Chronicle in 2005. A year earlier he told the same publication, "We spend a lot more of our members' dollars struggling with Sutter than Sutter workers pay in dues." The union represents about 4,600 of the 45,000 employees within the Sutter Health network. Members pay about \$750 per year to the union.

Sutter Health's affiliated organizations are fundamentally opposed to choosing a particular labor union for their employees. Because of our unwillingness to force this particular union on employees, Sutter Health and its affiliates continue to be the target of a focused campaign by SEIU United Healthcare Workers West.

### As part of this destructive and costly campaign, SEIU United Healthcare Workers West

- Aggressively opposed many critical projects proposed by Sutter-affiliates, including a new medical campuses in San Carlos, Novato, Santa Cruz and Sacramento. Ironically, each of these facilities include new, rigorous seismic safety standards to better protect patients and employees -- including the union's own members.
- Called upon the State of California to revoke Sutter Health's tax-exempt status.
- Tried to stop Sutter Health from accessing the bond market to make repairs and improvements to a number of Sutter-affiliated hospitals. The union then sent news releases to discourage investors from buying the bonds.
- Sent letters to individuals who have donated money to Sutter-affiliated hospitals and urged them to not contribute.

- Forced the cancellation of a Sutter Delta Medical Center-sponsored community event intended to raise money for critical breast cancer diagnostic equipment.
- Spent hundreds of thousands of dollars to prevent Castro Valley's Eden Medical Center, Sonoma County Hospital, Oakland's Summit Medical Center and San Francisco's St. Luke's Hospital from joining the Sutter Health network. Affiliation with a health care system was critical to the continued operation of these hospitals and all remain open today, as more stable operations offering new programs and services.
- Mounted a publicity campaign to discourage leaders of a struggling sole community provider hospital (Del Puerto, July 1997) in the San Joaquin Valley from becoming part of Sutter Health. The hospital chose another system partner and was immediately closed down. The union took credit for helping to affect the decision, but kept quiet when the hospital closed.

Labor Relationships | SEIU United Healthcare Workers West's  
misinformation campaign | What others have to say | The truth vs. SEIU  
United Healthcare Workers West's allegations

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### RELATED KEYWORDS

- Health Care
- Sutter Health
- Northern California
  - Seiu
- Sal Rosselli

## Union wants Davies probe / SEIU president asks investigation of '98 deal for hospital

October 11, 2003 | By Bill Wallace, Chronicle Staff Writer

A San Francisco health care workers' union has requested a state investigation of several "possible improprieties" in Sutter Health corporation's 1998 purchase of Davies Medical Center, including the payment of \$3.5 million to one of the San Francisco hospital's key executives.

The investigation was requested by Sal Rosselli, the president of Service Employees International Union Local 250, a San Francisco labor union that represents more than 90,000 hospital workers in Northern California.

"I have concerns about the fairness of Sutter's purchase price for Davies Medical Center, the possible misuse of charitable assets for purposes other than their original charitable mission and the possible misuse of charitable assets for illegal private gain," Rosselli said in a letter Friday to state Attorney General Bill Lockyer.

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"As these issues have significant implications for California residents, I urge the Attorney General's office to use its powers to ensure that Sutter Health, Davies Medical Center and their related corporations have been and currently are in compliance with California law."

Patricia Wynne, a special assistant attorney general in the legal affairs program of the state Department of Justice, said the state registry of charitable trusts will conduct an inquiry into the questions that have been raised.

"They are going to look into it, of course," she said. "But it's not like they have already launched an investigation."

Sutter Health officials said there is no merit to the union's claims and that Sutter's purchase of San Francisco's last, independent nonprofit hospital was completely legal and above board.

"The union suggests that somehow this transaction flew beneath federal and state regulatory radar," said Bill Gleeson, a Sutter Health spokesman. "Nothing could be farther from the truth. Both the state Department of Justice and the Federal Trade Commission were noticed about the purchase. Either of them could have held it up or blocked it. The fact is, they did not."

Sutter Health, headquartered in Sacramento, is a mammoth medical services corporation that earned revenues of approximately \$4.2 billion in 2001 and has more than 100 facilities scattered all over Northern California. It purchased the 341-bed Davies Medical Center in 1998, negotiating the sale with the center's chief executive officer, Gregory Monardo. Davies is now part of the California Pacific Medical Center complex.

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**May 18, 2004**

**Hospital Giant Sutter Health Announced Plans Today to Build New Hospital on Toxic Site in San Carlos  
Environmental Advocacy Groups Deeply Concerned About Toxic Chemicals on the Site, Including Cyanide,  
and Pollution from Surrounding Factories**

SAN CARLOS, Calif. May 18

SAN CARLOS, Calif., May 18 /PRNewswire/ -- Environmental organizations including Green Action for Health and Environmental Justice and Clean Water Action are expressing deep concerns about an announcement today by hospital giant Sutter Health to build a new hospital on a toxic site in San Carlos. Last week, a report was released that details a host of highly toxic and other environmentally dangerous substances that have been identified on the site. The groups are concerned that corporate giant Sutter, would consider building a hospital on a toxic waste site and near other pollution sources -- and that they continue to put their corporate profit-making interests ahead of the health care needs of the public. Even more egregious is the fact that patients, especially those with compromised immune systems, would potentially be at risk for added health issues as a result of being exposed to possibly environmentally unsafe conditions. Sutter health care workers would have the greatest risk because of the long-term exposure they would have by working in and around an unsafe facility.

Three reports in particular, prepared by Environmental Data Resources and furthered reviewed by scientists from Green Environmental, Inc., clearly reveal the presence of hazardous materials that have been used and stored on the proposed hospital site. The hazardous materials include: acids, alkalines, cyanides, metals, lubricants, chlorinated solvents, flammable solvents and oxidizers. Chemicals that were stored were in aboveground and underground storage tanks. In addition to the onsite issues, the report further reveals that several sites in the immediate vicinity of the proposed hospital site are reported as having releases of petroleum products and/or solvents and/or groundwater as well as the existence of air emissions of organic hydrocarbons and reactive organic gases.

SEIU 250

"We are greatly concerned about the possibility that Sutter Health would build a hospital to make people healthy on top of toxic contamination that could make people sick," said Karl Krupp, Community Health Advocate for Greenaction for Health and Environmental Justice. "Sutter Health needs to find a safer location that does not put the community, patients and health care workers at risk," Krupp added.

Headquartered in Sacramento, Sutter Health is the 10th largest hospital chain in the nation and the largest sys-



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tem in Northern California. It operates 26 hospitals across Northern California and just recently posted an annual profit of \$465 million in 2003, compared to profits of \$284 million in 2002. That's a profit margin of close to 7%, while most non-profit hospitals have an operating margin around 2-3%. Advocacy groups have charged that Sutter has come by these profits through questionable business practices, and CalPers has threatened to drop Sutter Hospitals from their list of providers due to overcharging for patient services.

"Prevention is the cornerstone of the medical profession, which make Sutter's decision to pursue the construction of a hospital on such an environmentally-compromised site all the more surprising. Reason tells us that preventing future health risks by siting a medical facility in a safe location should be the only possible solution," said Lena Brook, Interim California Director at Clean Water Action in San Francisco.

The environmental groups are demanding that Sutter "come clean" with any and all information they have about the location. The groups are also urging that community meetings and forums be held so that the public can be fully informed about the issue and the serious health threats that Sutter's new hospital construction would present.

Greenaction works with urban, rural, desert and indigenous communities in campaigns for health and environmental justice.

Clean Water Action's (CWA) California program, founded in 1990, works for clean, safe and affordable water, prevention of health-threatening pollution, and empowerment of people to make democracy work. CWA organizes strong grassroots coalitions, and campaigns to protect our environment, health, economic well being and community quality of life.

CONTACT: Karl Krupp, +1-415-248-5010 or Lena Brook, +1-415-369-9160,  
both of SEIU 250

Web site: <http://www.seiu250.org/>

---- INDEX REFERENCES ---

**COMPANY: SUTTER HEALTH**

**NEWS SUBJECT: (Plant Openings (1PL39))**

**INDUSTRY: (Construction (1CO11); Healthcare (1HE06); Hazardous Waste (1HA81); Healthcare Services (1HE13); Engineering & Architectural Services (1EN06); Industrial Plant Engineering (1IN41); Hospital (1HO39); Healthcare Service Providers (1HE78))**

**REGION: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))**

**Language: EN**

**OTHER INDEXING: (CLEAN WATER ACTION; CWA; HEALTH; HOSPITAL GIANT SUTTER HEALTH**

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ANNOUNCED PLANS; SEIU; SUTTER; SUTTER HEALTH) (CalPers; Cyanide; Greenaction; Headquartered; Karl Krupp; Krupp; Lena Brook; Prevention; Web) (California)

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Word Count: 862

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**July 27, 2004**

New Website Created to Monitor the Activities of Sutter Health  
Caregivers, Patient Advocates Launch Site to Provide Information About Sutter's Track Record of Putting  
Profits Before Patients

OAKLAND, Calif. July 27

OAKLAND, Calif., July 27 /PRNewswire/ -- On Tuesday, July 27th, <http://www.suttercorporatewatch.com/> went live on the internet. The new site, created by caregivers and patient advocates, is designed to serve as a comprehensive resource to assist the public in better monitoring Sutter Health, its history of putting profits before the needs of patients and its impacts on our communities.

The multi-billion dollar Sutter Health, Northern California's largest hospital corporation, has faced sharp criticism from the California Public Employees Retirement System for charging prices that are 80% higher than the statewide average. In addition, federal investigators recently found violations at Sutter Solano Medical Center that posed an "immediate and serious threat to the health and safety of patients."

SEIU 250

Sutter Health made \$465 million in profits in 2003, a profit margin that is four times higher than the average for hospital corporations across the nation. Although Sutter has "non-profit" tax status, it operates a host of for-profit subsidiaries. Sutter has been decried by the advocacy group Health Access and the San Francisco Board of Supervisors for overcharging patients without health insurance and then sending their accounts to aggressive debt collection agencies

The new website provides access to information drawn from a wide variety of sources, including state and federal health agencies, the IRS, court records, and the press. Visitors to the site can link to the class-action lawsuit filed against Sutter for overcharging the uninsured, data summarizing Sutter's skyrocketing profits that are 400% higher than the national average, and the personal stories of patients victimized by Sutter Health's discriminatory pricing and aggressive debt collection practices.

The site also features a "press room" that provides links to a constantly growing compilation of articles from various Northern California media outlets detailing ongoing investigations of Sutter Health, Sutter's history of price gouging, soaring profits, poor treatment of employees, environmental hazards, and patient care problems.

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Sutter Corporate Watch is sponsored by Sutter Health Watch, a coalition of health care advocates, hospital workers, patients and family members, the Service Employees International Union, and community supporters who have united to improve the safety and quality of care in California hospitals.

Media Contact

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Web site: <http://www.seiu250.org/>

---- INDEX REFERENCES ----

COMPANY: **SUTTER HEALTH**

INDUSTRY: (I.T. in Healthcare (1IT09); I.T. (1IT96); Healthcare (1HE06); Healthcare Services (1HE13); I.T. Vertical Markets (1IT38); Hospital (1HO39); Healthcare Service Providers (1HE78); E-Commerce (1EC30); Internet (1IN27))

REGION: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

Language: EN

OTHER INDEXING: (CALIFORNIA PUBLIC EMPLOYEES; HEALTH; IRS; PATIENT ADVOCATES LAUNCH SITE; **SEIU**; SERVICE EMPLOYEES INTERNATIONAL UNION; SUTTER; SUTTER CORPORATE WATCH; **SUTTER HEALTH**; **SUTTER HEALTH** CAREGIVERS; **SUTTER HEALTH** WATCH; SUTTER SOLANO MEDICAL CENTER) (Kathleen Miller; Web) (California)

KEYWORDS: (LBR); (PDT)

Word Count: 515

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## Coalition to Build the Railyards

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BLOG

27 Jan 2006

As seen in Sacramento Business Journal

### *Unions wielding environmental law to threaten foes*

Labor unions are grabbing a well-used environmental tool to wield against companies they don't like.

They're finding they don't have to lift it very high to get what they want.

The 35-year-old California Environmental Quality Act, or CEQA, provides power that has nothing to do with bad air or traffic. Opponents can use it to delay construction of a project long enough to cost a company millions of dollars.

That prospect alone makes the law an effective tool in the hands of unions, which are using CEQA challenges more often as an organizing tool or to put pressure on a company to use union labor in construction.

Union intervention in environmental disputes over development is "very common," said Sacramento attorney James Moose of Remy, Thomas, Moose and Manley LLP.

"They threaten to sue or do sue, with the intended settlement having nothing to do with environmental issues. It's purely a matter of leverage. Businesspeople are appalled by it because they think it's straight blackmail."

Unions and the law firms they work with say they've found a useful, legal tool to get changes they want -- and they plan to use it more.

"You can expect to see unions involved in the environmental process because of health standards," said Bob Balgenorth, president of the State Building and Construction Trades Council of California. "And I think unions will increasingly get involved because of the effect on jobs."

Unions are using CEQA in several ways. Among them:

State building trades have pressured power plants, refineries and others to use only union labor on big construction jobs.

Service Employees International Union extended its multifront campaign against Sutter Health this month by filing a CEQA lawsuit alleging that the Sacramento-based company failed to respond adequately to environmental concerns about its huge midtown development project, even though neighborhood groups approved the plan.

The same law firm that represented SEIU during early complaints about the midtown project has filed other lawsuits against California businesses on behalf of a group run by a former union official. The suits alleged environmental violations, but defense lawyers say they were filed against nonunion companies targeted by a union -- and settled quickly.

Most commonly, the disputes get settled out of court. Sometimes all the union has to do is send a letter listing a project's alleged environmental faults.

"It's a shot across the bow, and people know exactly what that means," Moose said.

The stakes are huge.

#### **Big bucks**

CEQA requires disclosure of a project's potentially significant environmental impacts and "mitigation" to offset those that are unavoidable. Even if they lose a CEQA case, developers often can revise environmental impact reports to satisfy the courts.

Fears about CEQA challenges boil down to time and money: Businesses can cut a deal or litigate. Both can be expensive and risky.

"A lot of times, lending institutions will not open up their wallets for construction of a project if there's a CEQA suit pending," Moose said.

A trial usually takes about a year. Verdicts often end up in appeals courts, adding another year or two.

Sutter Health was hit Jan. 6 with a CEQA lawsuit filed by Service Employees International Union-United Healthcare Workers West. The Sacramento-based company says delays to its \$465 million midtown expansion will cost \$3 million to \$5 million a month, before legal fees.

Sutter is not alone.

"With CEQA -- and a filing fee between \$50 and \$500 -- you can stop anybody in their tracks," said John Merchant, chair of California Citizens Against Lawsuit Abuse, a statewide group based in Sacramento.

The documents companies must file to get their projects approved offer an easy route to the courthouse. "People don't have to dig very far," said Ed Quinn, a Sacramento attorney who does environmental law and represents Sutter on the midtown case. "There's a pretty handy road map."

#### **Following the map**

South San Francisco law firm Adams Broadwell Joseph & Cardozo has represented labor unions in environmental reviews of power plants, refineries, residential projects and even a landfill. "Very few of our cases result in litigation," said attorney Richard Drury.

Recently the firm has concentrated heavily on refineries, including some with old, dirty equipment, for a group of five unions. "Retrofitting those units does create a lot of jobs for boilermakers, pipefitters and insulators," Drury said. "Installing air pollution control equipment is labor-intensive."

In 2003 the unions persuaded ConocoPhillips Co. to add more air pollution controls to a refinery expansion in Rodeo. That created about 850 jobs over two years for workers installing and maintaining the equipment, Drury said.

The law firm also has represented California Unions for Reliable Energy (CURE), chaired by Balgenorth, the president of the building and construction trades council. CURE has intervened in most state applications for major new power plants over the past few years. In all but a couple of cases the power-plant builders have resolved the issue by signing project labor agreements sought by CURE, guaranteeing union jobs.

In 2004, when Roseville applied for a state permit to build its new plant, CURE submitted a 23-page request for details on everything from cooling-tower emission projections to an explanation of why the project would not need flatbed trucks to import pipe.

The city-owned electric utility estimated CURE's intervention would cost \$15 million from construction delays, higher permitting expenses and higher-cost electricity the utility would have to buy from wholesalers. Roseville's City Council quickly agreed to union labor, and CURE withdrew its data request.

Union labor for the project might have cost about \$3 million more than nonunion workers, said Roseville Electric director Tom Habashi, but "the whole thing is moot anyway because the city requires contractors to pay union or prevailing wages, whichever is higher."

CURE failed with a similar campaign in Riverside. After months of hearings, the Energy Commission approved the City of Riverside's power plant permit. The project is under construction without union labor, but the fight cost the city \$6 million for a \$75 million power plant, according to a published report.

"If there are legitimate environmental issues, whether it's industry raising them or unions or the Sierra Club, they ought to be addressed by an EIR," said Drury.

CURE's efforts, Balgenorth said, have helped benefit the state and local economy. "If a power plant is built by out-of-state workers you lose about 1,500 jobs."

CEQA and the federal Clean Air Act require industrial operations to use the best available pollution-control technology. California has the most stringent air pollution standards for power plants. Balgenorth said CURE's pressure led to incremental improvements in emissions of smog-forming oxides of nitrogen and set a precedent for future power plants.

"Whenever we do a PLA we have never compromised on the environmental issues we have raised," Balgenorth said. "That's the kind of thing we're going to continue to be involved in, whether or not there's a PLA."

#### **The name game**

Union involvement was obvious in the CURE cases, but unions also pursue claims under other names. Settlements are usually confidential.

Legal and Safety Employer Research Inc. -- referred to as LASER in court documents -- is the plaintiff in several



lawsuits. It is described in court documents as a Gridley-based organization formed "to promote safety, productivity, honesty and environmental compliance in the construction industry nationwide." According to published reports and a construction industry group, it is union-backed and run by a former business manager of a boilermakers union local.

Repeated calls to plaintiff's attorney Ted Franklin were not returned. The lead attorney on the LASER cases, he works for the Oakland law firm that often represents SEIU.

"Apparently they cut a deal and it went away," Modoc County Counsel John Kenny said of one case filed by LASER against his county and a hard-rock mining and processing company that wanted to open a site near Alturas. "There's certainly been a movement to challenge projects by people who aren't unionized," he said. "And the vehicle they use is CEQA."

Similar cases were filed against Santa Fe Aggregates regarding proposed projects in Stanislaus and Merced counties.

"Their only interest in my particular client at the time was in unionizing (them)," said Stockton attorney Rod Attebery, reflecting statements he said he made in court.

#### **A delayed interest**

SEIU says it has legitimate environmental concerns about the proposed Sutter midtown project. Others wonder.

The Sacramento health system spent more than \$2.4 million on an environmental impact report on the project from the time of the first public meeting until the plan and project were unanimously approved by the Sacramento City Council Dec. 6. There were more than 34 public meetings, mailings and presentations over almost five years, beginning in February 2001.

SEIU did not participate in the process until last summer, when it raised the idea of tying a set of "community benefit principles" -- in essence, a new layer of city oversight -- to the approval and started talking about environmental problems with the plan. The move coincided with high-profile contract negotiations between the union and several Sutter hospitals. SEIU has tried for years to organize Sutter hospitals in Greater Sacramento. The only local union shop in the health system is Sutter Roseville.

The union filed suit in Sacramento County Superior Court Jan. 6, alleging that the environmental report fails to address air quality, traffic and noise concerns.

SEIU hospital division chief John Borsos said this week that the legal action against Sutter in Sacramento is all about accountability and environmental issues, not organizing. "We don't have an active campaign against Sacramento hospitals."

Sutter plans to go ahead for now. Archeological testing will start Feb. 6.

It's unclear how the lawsuit will affect commercial portions of the project. Mark Friedman, president of Fulcrum Property Group, the company developing the housing component of the project, said lenders take lawsuits into consideration when they decide on financing.

"There's a surprising and unholy alliance between some environmentalists and labor unions," Friedman said. "It's particularly demeaning to the environmental movement to allow laws designed to protect the environment to be used as a sword in a labor fight."

--- Kathy Robertson and Celia Lamb

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## Shared values clash in hospital-labor war.

*Title Annotation: includes related article; unions and Catholic healthcare system*

*Author: Schaeffer, Pamela*

*Article Type: Cover Story*

*Date: Sep 4, 1998*

*Words: 4417*

*Publication: National Catholic Reporter*

*ISSN: 0027-8939*

National labor leaders waging an uphill battle to organize workers in a major Catholic health care system are calling on health care administrators and religious orders to live up to the church's social teachings--teachings that, for more than a century, have come down strongly on the side of unions.

Union supporters say the hospital system, as part of a vigorous antiunion campaign in California, has likened a labor organization to greedy big business, hired notorious "union-busters" and endorsed or tolerated tactics that overstep the legal line. Despite the church's social teaching, they say, surveillance, intimidation, interrogation, antiunion letters signed by nuns and chaplains--even morning prayer in the chapel--have served as strategies in an increasingly bitter fight.

Leaders of Catholic Healthcare West, one of the largest health care systems in the country, deny any violation of law, ethics or church teaching in the campaign. Meanwhile, Catholic activists supporting workers, including some Los Angeles area priests, say the clash is all too familiar. For decades, Catholic hospitals around the country have consistently met organizing efforts with strong antiunion campaigns, activists say.

"Catholic leaders are all for unions when they're for farm workers or poultry pickers but are vociferously opposed when unions come to their own institutions," said Notre Dame Sr. Barbara Pharr, a Chicago-based nun seeking a more even playing field for workers. Pharr is coordinator of the Religious Employers' Project of the National Interfaith Committee for Worker Justice.

Four system officials interviewed by NCR, including a nun whose order sponsors Catholic Healthcare West, said they endorse workers' freedom to join a union. They insisted that allegations of employer-endorsed intimidation and other illegal activities are untrue.

Bernita McTernan, senior vice president for mission services and human resources, said, "I don't think we'd say we prefer not to have a union, but that we have a just workplace and we would like to have our employees make a choice." She added, "We believe in Catholic social teaching. We uphold it."

Opposing Catholic Healthcare West, a system sponsored by nine religious orders, is Service Employees International Union, a division of AFL-CIO. The service union is one of

the most aggressive and successful unions in the country in terms of organizing efforts. Since the early 1980s, in a period when many unions have stagnated or declined, the service union has doubled its membership, from 600,000 to 1.2 million workers.

Catholic Healthcare West, formed just 12 years ago, operates 37 hospitals, 35 of them in California, along with ancillary facilities, home care and physicians organizations. The system ranks seventh in size in the nation. Gross revenues totaled \$3.1 billion last year.

Pharr said the Interfaith Committee created her position "because of the notorious antiunion reputation" of religious orders that oversee health care. It's not unusual, she said, for nuns to fight on the front lines of union battles involving farm workers or other oppressed groups even as their orders are fighting unions in their own institutions.

"This has been a black eye in the Catholic church for decades," Pharr said. "We have a long history of terrible tension between religious employers and organized labor. For all of our social teachings, we are terrible employers."

Union leaders said they had filed a dozen charges against Catholic Healthcare West in the present campaign. In one case, the National Labor Relations Board has upheld the complaint, union leaders said, two have been dismissed on appeal, and the rest are pending.

"There have been some questions about why we should be so opposed" to union organizing, said Michael Erne, president and CEO of the system's Sacramento region, "when in fact the church, many sisters and priests have been so supportive" of unions elsewhere. Many, he noted, have supported organizing campaigns for farm workers in California. "The difference here," he said, "is that here our sponsors are the Sisters of Mercy. They own us. We work for them. They have a just workplace as one of their core values."

In the present campaign, the union is targeting Catholic Healthcare West facilities in Sacramento and in Southern California.

Erne personally opposes a unionized work force because, he said, "it sets up an adversarial relationship" in the workplace and the union takes credit when the environment improves. "When you get into a union situation and you do the right thing, typically you never get credit for it," he said. "The union always takes credit. So if you have management with the right intentions ... it's disheartening to never get credit for it, especially where justice in the workplace is a core value."

Erne said he sees "confusion" about Catholic teachings on workers' rights. "It's clear to me that the Catholic church supports the right to organize," he said. "But clearly, from our view, that also respects their right to choose ... to make an informed decision after carefully weighing both sides." He decried reports of intimidation. "If it is going on, it is unauthorized and it's wrong," he said.

Some workers and union leaders disagree that the workplace in the system's facilities is "just." In a union-sponsored survey of Catholic Healthcare West employees in Los Angeles and Sacramento, workers reported widespread dissatisfaction with working conditions and expressed concerns about quality of patient care in light of staffing cuts. A shift from fee-

for-service to managed care in recent years has put hospitals in a cost squeeze and dramatically altered the work environment, nurses and other employees said.

Others say working conditions are only part of the picture, noting that Catholic social teaching supports workers' right to form unions, period, even if conditions are good. For example, Msgr. George Higgins, who served for more than 45 years as consultant to U.S. bishops on labor and economic issues, pointed out as recently as June that Pope John Paul II has described unions in two encyclicals as "indispensable."

The pope has described labor unions as "places where workers can express themselves," organizations that "serve the development of an authentic culture of work and help workers to share, in a fully human way, in the life of their place of employment," Higgins said in a speech at the University of Notre Dame.

### Caring environment

Pharr went to California in mid-July to meet on behalf of workers with nuns whose orders sponsor Catholic Healthcare West. The result, she said, was deeply disappointing. Three nuns refused to see her, two appointments were canceled and a number of phone calls were not returned, she said. According to Pharr, the nuns she met with, five in all, and only three of them decision-makers, "repeatedly said to me that they have nothing in common with the union, don't share any values, don't have a common mission and that the union is only about gaining membership and making money. That kind of closed-mindedness is a real concern for me."

McTernan, the system vice-president, said she thought Pharr had been treated fairly. The meetings, she said, though "not as many as she wanted ... included some top-level people," including McTernan herself, as well as "some sisters in the field."

Pharr said some of the nuns had the impression that she is "in the union's pocket" -- a false impression, she said. The Interfaith Committee derives only about 13 percent of its support from unions, the rest from religious groups, foundations and individuals, she said.

"Our organization is pro-worker. We're the first to say unions aren't perfect," Pharr said. "But we need room for dialogue, for reconciling differences."

Ironically, Pharr said, some nuns who sponsor hospitals say they can't intervene in the union battle because they are not involved in day-to-day operations. "I think it's a false separation," she said. "If one of the hospitals was performing abortions they wouldn't say that."

Dominican Sr. Julie Hyer, speaking for the religious orders that sponsor the hospitals -- said the sponsors do take ultimate responsibility -- and do not oppose unions. "One of the very fundamental things we believe is that an employee has the right to choose whether to be represented by a union. We support that 100 percent," she said. Hyer is CEO of Dominican Hospital in Santa Cruz.

Further, she said, the campaigns in Sacramento and Southern California are regional matters. "That's the strength of the system, to realize there are times and places for corporate policy and centralized activities and times and places for decentralization," Hyer

said. "It's very appropriate that those local facilities would declare their way of dealing with the union."

Who's in charge?

Mary Kay Henry, a union leader who is working on several fronts to forge links with nuns who sponsor Catholic Healthcare West, said the question of who holds authority has become a major issue for organizers.

"I think there's a war within the corporation over who has authority over what," she said. "Half of it is genuine confusion and half of it is a way to keep us running around without getting answers."

Union organizers, several of whom describe their work as an extension of long-standing social justice concerns, say they had hoped for better reception at Catholic Healthcare West, given its mission and core values. Union organizers say they share those values: respect for human dignity, stewardship, collaboration, excellence in health care delivery and justice for all -- for employees as well as people who lack access to health care and other basic needs. In fact, the union organizers say, they would urge the system to ensure that access for its own employees' children by providing paid health insurance for dependents at all facilities.

Hyer said employee benefits are not uniform throughout the system's facilities.

Erne, of the system's Sacramento region, said the union's expectation of openness and dialogue was unrealistic. "You have to put things in context here," he said. "Employees have been bombarded with a lot of extremely negative information about Mercy Healthcare Sacramento. We took a stand. We decided we needed to respond to that."

Union leaders, for their part, say the system's campaign has portrayed the union in the worst possible light. They say they tried unsuccessfully for more than a year to run a positive campaign, hoping to elicit cooperation with the system's officials and sponsors and to foster discussion of shared concerns.

Of five hospitals in Southern California, organizing is most intense at Robert F. Kennedy Medical Center in Hawthorne and St. Francis Medical Center in Lynwood.

Three unions, including the California Nurses Association, an organization of registered nurses, have conducted successful campaigns in at least 11 Catholic Healthcare West facilities in recent years. Nancy Cartwright, the system's director of public affairs, said 28 percent of the system's employees belong to unions. Workers at some facilities were organized before the system was created in 1986.

Roseann DeMoro, executive director of the registered nurses' association, said Catholic hospitals "run the standard campaign. They hire the secular union busters, the notorious ones. Employees are not free to choose."

Disturbing change

DeMoro's union represents 30,000 nurses, more than a fourth in Catholic hospitals and

about 15 percent in facilities operated by Catholic Healthcare West. The fact the union has organized eight Catholic Healthcare West facilities in the past few years "speaks volumes" she said. "Five to 10 years ago, people identified with the mission of Catholic hospitals. Now they feel it's more a business run for the bottom line."

Guadalupe Moore, a licensed vocational nurse, said she feels disoriented by recent changes. Moore said of her job at St. Francis Medical Center, "It's not the personal thing it used to be. Health care is changing so much. Big business has taken over. They're not going to listen to us unless we have a bargaining unit behind us." Moore has worked at St. Francis for 28 years.

Matthew Euen, senior biomedical technician at St. Francis, said he had contacted the union because of what he described as a disturbing change in managers' attitudes toward employees after the hospital linked up with Catholic Healthcare West about two years ago. "Employees took a real back seat," he said. "A number of us had some complaints. They told us if we didn't like it, we could go elsewhere."

To Euen, the hospital's antiunion campaign is nothing short of "brutal harassment." He alleged that he and others had been told in one-to-one meetings with supervisors that they should not support the union. Euen said he feels that supervisors are constantly watching him, and managers have taken steps to limit his work-related activities in parts of the hospital where he used to go freely.

At the same time, some employees told NCR that working conditions and managerial demeanor had actually improved since the organizing efforts began -- a change several workers described as part of the antiunion strategy.

Previously, said Moore, when nurses would complain about staffing and other concerns, the response seemed to be, "If you don't like it, there's the door." Employees felt they weren't respected, she said.

"The last five years have been extremely difficult" for employees, said Erne, who assumed his Sacramento post less than a year ago. "My job is to put that behind us, to be as responsive as possible. When I came I expected my priorities would be more on being competitive, but the fact is the human issues, even before the union campaign, have become the highest priority." He added, "This is a tremendous organization that has a reputation for having a caring environment, not just for patients but for employees as well."

`Nasty stuff'

Despite those assurances, Jono Shaffer, organizing coordinator for the service union's western region, complained of "very low road, nasty stuff" during the campaign, an accusation that hospital leaders sharply denied.

"Low road? It's just amazing to me they would say that" given some of the union's own published materials, said Susan Whitten, vice president for strategy and marketing in Southern California. She cited, for example, a full-page ad that ran July 23 in the West Coast edition of The New York Times facing off pronunion statements by Catholic leaders, including Pope John Paul II, against allegations of intimidating tactics by hospital

authorities. Whitten said quotes and names were taken out of context. Sources said nuns around the country were infuriated.

"I think we've been incredibly accommodating" to union leaders, Whitten said. "Union organizers are on our campuses and cafeterias. They have access to our employees as much as they want, except on patient floors." She added that administrators had fielded complaints from employees about organizers calling on people at home. "Many employees are tired of the whole thing. They would just like it to go away," she said.

Both McTernan and Erne said that the system's officials consider it imperative that administrators respond to employees' concerns.

McTernan defended consultants hired by the hospital -- organizations such as Management Science Associates of Independence, Mo., one of the firms described by union leaders as a union buster. Erne said that was a mischaracterization. The Missouri firm, he said, deals broadly with human resources. McTernan said such consultants were needed to help hospitals deal with legal issues related to union organizing.

Officials at Management Science Associates did not respond to a telephone inquiry about the firm.

Pharr feels that much of the controversy surrounding the campaign derives from employers' failure to recognize power imbalances in dealing with employees. "I think the employer has a moral responsibility to be very careful what supervisors say and how they act, because they carry so much weight," she said. A letter or even an offhand comment from a boss has "tremendous power" to intimidate. "A union's power is only persuasive. An employer has the power to determine whether employees get a good shift or a bad one, what their benefits, even their livelihood, will be."

Letters and memos have served as important tools in the hospitals' campaign. At Robert F. Kennedy Medical Center, three members of Daughters of Charity, Sr. Elizabeth Parham, Sr. Therese Marie Pham and Sr. Michele Randall, urged employees in a letter dated April 17 to "please say no" to the union's "meaningless rhetoric .... To introduce a third-party into our family at RFK would be disruptive and may negatively impact our good working relationship," the nuns wrote.

On March 31, 10 nuns signed a letter addressed to employees of St. Vincent Medical Center in Los Angeles warning that a union would "be very detrimental to the hospital, our patients and to each of you." Union leaders said the campaign at St. Vincent had become so hostile they put it temporarily on hold.

The nuns' letter echoed points made in a March 31 memo to employees from Peter P. Aprato, the hospital's administrator. Aprato labor unions as "dying relics from the 1930s." The union's sole purpose today, he said, "is to recruit new union members to help bail out organized labor's dismal and failing financial and membership positions."

Br. Edward Spink, manager of spiritual care at Robert F. Kennedy, turned the union's claim for promoting justice on its head in his letter to employees. "It disgusts me that when we are vulnerable" because of "transitions in health care," the union "marches in as the champion of employee rights," he wrote. "They seek the vulnerable, disenfranchised and



the poor. They seek moneys you do not have to spare.... It's a justice issue." Employees complain that a chaplain has also expressed antiunion sentiments during prayer, asking God to help employees to do the right thing -- vote against the union.

Pharr said some employees who earlier expressed interest in a union have fallen away, fearing reprisals from supervisors. The system's language about "freedom of choice" is deceptive, she said, when employers spend "megabucks" on consultants who teach them how to keep the union out. Union organizers assert the system's campaign has cost millions, siphoning dollars from patient care. Erne declined to estimate its cost in his region but said cost issues had been "blown all out of proportion."

In late August, some 44 employees pressed for information about the cost -- one of five demands they set before Richard J. Kramer, chief executive officer of the system. Kramer was vacationing, so McTernan met with the group. The group also demanded that officials stop interfering in organizing efforts, respect the church's historic support for unions and stop efforts to break the union in places where it already exists. Henry said a contract remains elusive at St. Joseph Hospital in Stockton, Calif., even though a majority of employees asked for union representation two years ago.

Fr. David O'Connell, pastor of St. Francis Cabrini Parish in South Los Angeles, cites considerable support for workers among Los Angeles priests. "It seems strange that Catholic Healthcare West and the union say they want the same thing, that workers be free to choose, yet workers say the atmosphere is not free," he said. "There's something fishy someplace. If they both want the same thing, why can't they get together on it?"

Fr. Stan Bosch, pastor of Our Lady of Victory and Sacred Heart parishes, said some members of clergy plan to go into the hospitals and talk to workers during lunch and breaks. Priests plan to collect information and present it to archdiocesan bishops for review, he said.

Bosch was among about 10 priests and ministers who led a prayer vigil June 24 on the steps of St. Francis Medical Center. According to news reports, only 11 employees out of a work force of 1,400 were there. Workers who were present attributed the small turnout to fear.

#### Jobs on the line

The union's goal is to get Catholic Healthcare West to agree to recognize bargaining units after a majority of workers sign cards inviting union representation. The method, which bypasses an often contentious election, relies on employer approval, since it is allowed, but not required, under U.S. law.

David Miller, senior research analyst for the union, said, "Some workers are saying they can't sign cards because they would lose their jobs. It's illegal to threaten workers with their jobs, yet workers say that's what's going on."

Erne, previously an administrator in Denver with a division of Catholic Health Initiatives, another Catholic hospital network, disputes such accusations but acknowledged that administrators have their work cut out for them in dealing with dissatisfaction. "I take great pride in trying to create the right environment for employees," he said. Erne said his region

had been "hurting a little" when he arrived. "Changes in health care have been very hard on employees," he said.

Labor leader Henry also has perceptions to fight -- most notably the notion that unions are little more than big businesses that aim to victimize workers. She finds that characterization appalling. "That's like saying Catholic Charities is a big business, just sucking off the welfare system," she said.

Even amid the fray, Henry, a product of 12 years of Catholic education and previous work in anti-hunger campaigns, holds out hope that common ground is possible.

"It's really the social justice tradition of the church that made me gravitate to this kind of work in the first place," she said. "Given the radical changes in the Catholic health care, I feel really urgent in reaching agreements with Catholic health care that make sense for workers."

Miller, the union's research analyst, who holds a divinity degree from the Pacific School of Religion in Berkeley and previously worked for the Interfaith Council on Corporate Responsibility, envisions a day when Catholic employers and unions will be able to put some of their differences to rest. "If we could get past some of those, there are a lot of things we could do together, both legislatively and in the work site, because of our common justice focus," he said.

Pharr, too, longs for reconciliation. During campaigns like the one in California, "mud is slung on both sides, and that isn't good for anybody," she said. "I've seen it all. Sometimes unions act unethically; sometimes hospitals act unethically. No matter who wins, the atmosphere is poisoned."

#### RELATED ARTICLE: Catholic Healthcare West

**History:** Founded in 1986 in a merger of 12 facilities operated by the Sisters of Mercy of Auburn and of Burlingame, Calif. Since then, facilities operated by seven other religious orders have been added, as have several non-Catholic hospitals.

**Size:** The system presently consists of 37 acute care facilities with nearly 8,000 beds and more than 1,400 skilled nursing beds in California, Arizona and Nevada. The system employs some 30,000 workers. Gross revenues for 1997 were \$3.1 billion.

**Participating religious orders:** sisters of Mercy, Auburn and Burlingame, Calif.; Dominican Sisters of Adrian, Mich.; Daughters of Charity, Province of the West; Sisters of Charity of the Incarnate Word, Houston; Dominican Sisters of San Rafael, Calif.; Dominican Sisters of St. Catherine of Siena of Kenosha, Wis.; Franciscan Sisters of the Sacred Heart of Frankfort, Ill.; Sisters of St. Francis of Penance and Christian Charity of Redwood City, Calif.

#### RELATED ARTICLE: Catholic social teaching: a sampler

Pope John Paul II Centessimus Annus, 1992

... The freedom to join trade unions and the effective action of unions ... are meant to

deliver work from the mere condition of a commodity and to guarantee its dignity.... The right of association is a natural right of the human being.... Trade unions ... serve the development of an authentic culture of work and help workers to share in a fully human way in the life of their place of employment.

"On Human Work," 1981

... Catholic social teaching holds that unions are ... indeed a mouthpiece for the struggle for social justice, for the just rights of working people in accordance with their individual professions.

U.S. bishops Pastoral letter: "Economic Justice for All," 1986

The purpose of unions is not simply to defend the existing wages and prerogatives of the fraction of workers who belong to them, but also to enable workers to make positive and creative contributions to the firm, the community and the larger society in an organized and cooperative way.

Footnote to document: Even if most injustice and exploitation were removed, unions would still have a legitimate place. They are the normal voice of labor, necessary to organize social life for the common good.

Vatican II "The Church in the Modern World," 1965

Among the basic rights of the human person must be counted the right of freely founding labor unions. These unions should be truly able to represent the workers and to contribute to the proper arrangement of economic life. Another such right is that of taking part freely in the activity of these unions with out fear of reprisal.

Pope Pius XI Quadragesimo Anno, 1931

For as nature induces those who dwell in close proximity to unite into municipalities, so those who practice the same trade or profession, economic or otherwise constitute as it were fellowships or bodies. These groupings, autonomous in character, are considered if not essential to civil society at least a natural accompaniment thereof.

Pope Leo XIII Rerum Novarum, 1891

[T]he beneficent achievements of the guilds of artisans among our ancestors have long been well known.... It is gratifying that societies of this kind composed either of workers alone or of workers and employers together are being formed everywhere, and it is truly to be desired that they grow in number and in active vigor .... they are highly opportune and are formed by their own right.

RELATED ARTICLE: Service Employees International Union

History: Founded in 1921 as Building Service Employees International Union, organizing janitors. Affiliate of AFL-CIO.

Membership and size: 1.2 million workers in service occupations and health care, up from

600,000 in 1986. More than 600,000 members presently work in health care. Third-largest and fastest-growing of U.S. unions.

**RELATED ARTICLE: National Interfaith Committee for Worker Justice**

**History:** Pro-worker organization founded in 1996 by Kim Bobo, formerly organizing director of Bread for the World, an anti-hunger group.

**Purpose:** To mobilize and educate the U.S. religious community on workplace issues. Develops educational resources, organizes local interfaith committees in major cities.

**Size:** 10 full-time staff; annual budget, \$425,000. Funded by private foundations and individuals, and by religious and labor organizations in equal amounts, according to policy. Board consists of 45 religious leaders.

**Activities:** Ongoing projects include the Religious Employers' Project, which aims to reduce tension between unions and religiously-owned health care organizations, and the Poultry Workers' Justice Project, which aims to focus national attention on often-deplorable working conditions for some 200,000 poultry workers, many of them new immigrants. The Religious Employers' Project is headed by Notre Dame Sr. Barbara Pharr.

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**August 25, 1998**

Section: BUSINESS

**IN THE NAME OF THE FATHER CATHOLIC VALUES INVOKED BY BOTH SIDES IN HOSPITALS'  
BATTLE WITH UNION**

Ilana DeBare, Chronicle Staff Writer

CatholicHealthcareWest, the second-largest hospital network in California, is facing a union drive by nursing aides, housekeepers and other service workers who claim that CHW is violating its own religious principles by opposing their efforts to organize.

The Service Employees International Union has spent the past year trying to organize about 10,000 workers at 10 CHW hospitals in Los Angeles and Sacramento. Labor unions already represent about one-quarter of CHW's 32,000 employees, including service workers and nurses at St. Mary's Medical Center and St. Francis Memorial Hospital in San Francisco, and at Seton Medical Center in Daly City.

Officials with CHW -- whose headquarters are in San Francisco -- say they are in full compliance with labor laws and with their faith's teachings about the right of workers to form unions.

They say they strongly oppose the union drive but have not tried to unfairly pressure workers to reject a union. "We are certainly trying to get our message out, but we have made it clear that intimidation and interrogation are inappropriate," said Cindy Holst, CHW spokeswoman for the Sacramento region.

However, labor organizers say that the Catholic hospital network is mounting an anti-union campaign as harsh and intimidating as anything they've seen in the for-profit health care world.

"They (managers) have taken almost everyone in my department into their offices on a one-to-one basis and told them lies like they could lose their benefits or their jobs if they join the union," said Luis Vallejo, a dietary worker at the Robert F. Kennedy Medical Center in Southern California.

"We were surprised by the atmosphere of terror, and I don't use that phrase lightly," said Sal Roselli, president

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of SEIU Local 250. "Managers are identifying union leaders and warning other workers not to communicate with them. . . . The hypocrisy (between Catholic teachings and CHW practices) is outrageous."

With 37 hospitals and about 8,000 acute-care beds, California Healthcare West is the second largest hospital chain in the state after for-profit Tenet Healthcare Corp.

CHW was formed in 1986 when local Catholic hospitals began joining forces to remain competitive in the new era of cost-cutting and managed care.

A nonprofit organization with 1997 revenues of \$3.2 billion, CHW is governed by a board that includes representatives of nine religious orders such as the Sisters of Mercy and Daughters of Charity.

CHW's Sacramento and Los Angeles employees say they decided to seek union representation primarily because of cost-cutting measures that have made it hard for them to do their jobs -- a complaint common to all kinds of health care organizations.

"Staffing is down consistently across the board, which means everything is done as quickly as possible," said Jill Dibert, a licensed vocational nurse who has worked at Mercy General Hospital in Sacramento for 13 years. "We no longer have time to attend to patients' psychological or spiritual needs. One great thing about Mercy is that it always had people like chaplains around. But now we no longer have time to assess whether patients need help like that."

CHW workers like Dibert hope a union will give them more of a voice in setting hospital policies. They also want better pay and benefits. For instance, union organizers say that CHW is one of the few Northern California hospital chains that doesn't pay for health coverage for its employees' dependents.

"CHW states in all its literature that its No. 1 priority is making sure that children are insured -- yet in Sacramento, none of their employees' kids are covered unless they can pay 100 percent of the cost," Roselli said.

CHW officials respond that they have recently raised pay levels to a par with other hospitals. They say they've tried to lower health insurance costs for their workers, but just can't afford to pay for dependent care.

"We don't have the economic capacity at this time to pay 100 percent of (employees' families') health care," said Holst.

CHW officials say they fear that a union would be a disruptive "third party" that would make it harder for employees and managers to work together. And they said that, while unions may have been necessary in other times and places, they are not necessary at CHW.

"In the past, unions attempted to better substandard wages and benefits, or improve areas where employees worked in deplorable conditions," three Daughters of Charity wrote in an April 17 letter to employees at the Robert F. Kennedy Medical Center. "We know that none of those negative circumstances exist at Robert F. Kennedy. . . . It is not necessary to purchase the services of a third party, the union, to address your concerns to administration."

The dispute at CHW over cost-cutting and compensation is strikingly similar to arguments going on elsewhere in the health care industry.

What makes the CHW union drive unusual is the religious nature of the organization -- and both sides' efforts to invoke Catholic values in making their case.

In a May 19 letter about the union drive to employees at St. Francis Medical Center in Southern California, Brother Richard Hirbe said the hospital's mission was life and "building up the Kingdom of God." He added: "No union can make claim to building God's Kingdom as its Mission."

Meanwhile, SEIU organizers are drawing upon statements by Pope John Paul II and other Catholic leaders that support the right of workers to choose whether or not to join unions.

"The Church fully supports the rights of workers to form unions or other associations to secure their rights to fair wages and working conditions," the National Conference of Catholic Bishops said in a 1986 statement. "Therefore, we firmly oppose organized efforts . . . to break existing unions or prevent workers from organizing."

Union activists hope to convince Catholic leaders in Sacramento and Southern California to intercede on their behalf, even though bishops have no direct authority over the women's religious orders that run CHW.

In Sacramento, a spokesman for the bishop said he would oppose any instances of "manipulation or deception or black propaganda" by a Catholic institution. "The diocese would be concerned if an association within the church were engaging in what is commonly termed 'union-busting' activities," said the Rev. Charles McDermott, vicar episcopal for theological and canonical affairs. But so far, McDermott added, he hadn't seen any evidence of that at CHW. "I would be astonished if the Sisters of Mercy countenanced intimidation," McDermott said.

#### PHOTO

Jill Dibert (front) and Mary Hillman want a union at Mercy General Hospital./BY KAT WADE/THE CHRONICLE

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# Catholic hospital organization signs accord with union.

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Hospitals and union pledge to work together after four years of stormy wrangling

After four years of acrimony and strikes, of public charges and countercharges using radio and newspaper advertising, a one-year peace accord was signed April 6 between Catholic Healthcare West, which owns 48 hospitals, and the Service Employees International Union.

The agreement covers non-nursing staff in 45 hospitals in two states, California and Nevada.

When peace did emerge from four months of resumed talks that included behind-the-scenes pressure from Los Angeles Cardinal Roger Mahony and San Francisco Archbishop William Levada, both sides expressed hope, but beyond generalities, neither side had much to say.

A joint news release stated that the new guidelines "define how the two organizations will relate to each other in any organizing efforts. We are delighted that both organizations are putting the past behind us."

The union's Steve Trossman said, "The thing is that on both sides we're not looking at this as the last step in a four-year conflict but the first step in a new relationship as we try to change the way things are done."

Said Catholic Healthcare West spokesperson Joyce Hawthorne, "I think we decided it's probably in our best interests to work with SEIU. We signed a similar agreement with the California Nurses Association in February. We felt this was something that would benefit both of us if we went about it the right way."

This new stance is a far cry from the situation that existed in mid-July 1999, when their battling reached something of a crescendo and any likelihood of peaceful negotiation collapsed.

The Service Employees International Union, an aggressive union with a penchant for publicity-attracting tactics, is best known for its street-blocking, traffic-disrupting Justice for

Janitors campaigns in Los Angeles and Washington. In targeting Catholic hospitals, the union displayed a canny sense of the bind Catholic hospitals are in, given the pro-union stance of Catholic social justice teaching.

Catholic Healthcare West, the nation's seventh largest not-for-profit health care system, and the largest in the West, represents the combined hospitals of nine religious orders. Like all hospitals in the United States, Catholic Healthcare West is in a cost-and-profits squeeze. The network quadrupled in size in a decade, has more than \$6 billion in assets, yet had a \$310 million operating loss in 1999.

Some 10 percent of U.S. hospitals are run by Catholic organizations.

The strongest building block for harmony in this new agreement, after allowing employees the right to organize without interference, is a hospital-union pledge to work together. Outside the hospitals, the newly teamed twosome will lobby on health care needs and immigrants' rights, and inside the hospitals will cooperate on training programs and grievance resolution.

That's a complete change from the four years of battles between the union and Catholic Healthcare West that created headlines and newscasts up and down California -- and served to educate the public through news stories that dealt with Catholic social justice teaching. At the same time, the battles placed women religious, who in many cases have ceded control over their hospitals to lay management, in something approaching a no-win situation.

The Catholic hospitals were accused of "demonizing" the unions and of hiring anti-labor management teams to fight off organizers and the angry and disruptive strike tactics and noisy demonstrations of the union.

The tide turned, if slowly in the second half of 1999.

In July of that year, 3,000 Catholic activists in Los Angeles for the National Catholic Gathering for Jubilee Justice, threw their weight behind the union as AFL-CIO President John J. Sweeney breakfasted with Catholic "labor priest" Msgr. George Higgins, who'd already said, "If the sisters are hiring a [management] firm that is anti-union, they're wrong."

The sisters in Catholic Healthcare West management retaliated by accusing the union of organizing a "corporate campaign" against the hospitals and engaging in disruptive practices. They contended the hospitals were simply defending their employees' right to choose.

The standoff satisfied no one.

The next month, August 1999, saw the fruition of a two-year drive led by Mercy Sr. Mary Roch Rocklage, CEO of the St. Louis-based Mercy Health System, for a subcommittee of the U.S. bishops' Domestic Policy Committee to develop a working paper on "just workplace" principles and practices.

Representatives of the Catholic Health Association, Catholic hospital management, unions

and the bishops produced a draft that stated, "When workers are serious about organizing, it seems the best approach requires a civil, focused, businesslike dialogue between management and union on just how the workers' right to decide will be respected by both parties."

It has taken 16 months for Catholic Healthcare West and the union to reach that point. Serious negotiations have been underway since just before Christmas.

Not part of the paper contract, but a key part of the understanding across the negotiating table is what the combined lobbying might of Catholic hospitals and the union could achieve politically.

The state of California controls hundreds of millions of dollars in seismic retrofit funds to ward off the worst from earthquakes, and channels billions more into health care services for the poor. It is in the interests of both the union and Catholic Healthcare West to persuade the state to direct those monies to nonprofit hospitals.

For the patient and the employee, too, there is some glimmer of hope. Within the hospitals, the union states, key factors in almost every strike in the past four years have centered on the issues of short staffing and workload. For nursing and non-nursing staff, this is a major bone of contention. Under the new agreement, if there's now a dispute on staffing, it will go to an outside health expert arbiter.

Meanwhile, with the ink barely dry, the union moved to seek representation at St. Bernardine's Hospital in San Bernardino, Calif. Both sides will have their say, but both anticipate what is described in the bishops' "Principles and Practices for a Fair and Just Workplace for Catholic Health Care": "a civil, focused and businesslike dialogue."

#### Catholic Healthcare West history

Catholic Healthcare West was founded in 1986 in a merger of 12 facilities operated by the Sisters of Mercy of Auburn and of Burlingame, Calif. The Mercys were subsequently joined by the Dominican Sisters of Adrian, Mich.; Daughters of Charity, Province of the West; Sisters of Charity of the Incarnate Word, Houston; Dominican Sisters of San Rafael, Calif.; Dominican Sisters of St. Catherine of Siena, Kenosha, Wis.; Franciscan Sisters of the Sacred Heart, Frankfort, Ill.; and the Sisters of St. Francis of Penance and Christian Charity of Redwood City, Calif.

The Service Employees International Union began in 1921 organizing janitors as the Building Service Employees International Union. It is affiliated with the AFL-CIO, represents 1.2 million workers, including 400,000 in California, 200,000 of them health care employees. The SEIU has doubled in size in 15 years and is the country's third-largest and fastest growing union.

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**A-40**

# 14,000 Hospital Workers Reach Historic Master Agreement at 28 Facilities Across California; Statewide Agreement with Catholic Healthcare West Sets a New Direction for Hospitals in the State - a Voice in Staffing for Caregivers, \$4 Million Training Fund Promise to Dramatically Improve Patient Care.

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SAN FRANCISCO, June 1 /PRNewswire/ -- 14,000 caregivers at 28 facilities owned by Catholic Healthcare West (CHW) have settled a tentative agreement which represents an historic shift in the way hospital care is delivered in California. The 4-year statewide master agreement, which still needs to be ratified by members of SEIU Locals 121RN, 250 and 399, insures a strong voice for caregivers in improving staffing levels, with disputes settled by a neutral health care expert. In an ambitious effort to meet the growing demand for highly skilled health care professionals, the agreement also includes a training fund, paid educational leave and tuition reimbursement. In addition, there are significant increases in the pension plan which will help recruit and retain qualified staff. Along with the union contract that is in place at Kaiser Permanente, this agreement sets the standard for all other hospital union contracts in the state.

"I'm very proud that we've been able to establish a master contract with CHW and for the first time ever on the West Coast, we've been able to set up a formal training and education fund for health care workers," said Martha Vazquez, who has been a Radiology Technologist at St. Joseph's Medical Center in Stockton for the past 12 years. "When employees have a voice in staffing, educational opportunities and good benefits, quality of care improves."

The agreement also sets up a statewide Labor-Management Committee and regional Workforce Planning Committees so that employer and workforce representatives can jointly anticipate and plan for industry trends. There is a host of other major improvements. At a time when many unions are struggling to defend past gains, CHW caregivers achieved 20% average wage increases, the ability to achieve retiree health care within 2 years and 100% employer paid family health insurance. Finally, CHW agreed to allow employees who are not yet members of SEIU to unionize without management interference.

"CHW has come to realize that hospitals serve patients better when frontline health care

workers have a voice in setting appropriate staffing levels and other patient care decisions," said Sal Rosselli, president of SEIU Local 250, the Health Care Workers Union for Northern California. "This agreement sets the standard that all other hospital corporations in the state should now live up to."

In a separate agreement, a formal workgroup was set up to pursue common goals in the area of health care reform such as achieving universal access, improved quality of care and increased accountability of health care dollars. Most importantly, CHW pledged to join with caregivers to defend the Health Insurance Act, SB2, which requires big business to provide affordable health insurance.

The health care workers of SEIU have now vowed to focus their energies on supporting the caregivers at Daughters of Charity, Sutter Health and many independent hospitals who are still without contracts.

#### CHW Hospitals Covered by Agreement

Facility	SEIU Local	City	Number of members
Bakersfield Memorial	399	Bakersfield	625
Bruceville Terrace	250	Sacramento	120
California Hospital	399	Los Angeles	500
Community Hospital of San Bernadino	399	San Bernadino	725
Mercy General	250	Sacramento	800
Mercy Hospital Bakersfield	399	Bakersfield	165
Mercy San Juan	250	Carmichael	800
Mercy Folsom	250	Folsom	160
Mercy Home Health	250	Rancho Cordova	60
Mercy Westside	399	Bakersfield	100
Methodist	250	Sacramento	400
Mercy Mt. Shasta	250	Shasta	170
Mercy Redding	250	Redding	725
Northridge Roscoe	121RN/399	Northridge	650
Northridge Sherman Way	121RN/399	Van Nuys	1,425
St. Bernadine	399	San Bernadino	700
St. Mary's Long Beach	399	Long Beach	800
St. Mary's SF	250	San Francisco	450
St. Francis	250	San Francisco	380
St. John's Pleasant Valley	121RN/399	Camarillo	405
St. John's Regional	121RN/399	Oxnard	950
St. Joseph's Medical Center	250	Stockton	1,100
St. Joseph's Behavioral Health Center	250	Stockton	55
St. Dominic's	250	Manteca	160
Dominican	250	Santa Cruz	400
Dominican Oaks	250	Santa Cruz	60
Woodland Clinic	250	Woodland and Davis	240
Woodland Hospital	250	Woodland	175

SEIU is the largest and fastest growing health care workers union in the nation and in California. We represent over 755,000 health care workers nationally, including nursing,



professional, technical, paramedic and service classifications. Our mission is to achieve secure, affordable, high quality health care for all.

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